



# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



Richard J. Bruckner  
Director

April 9, 2015

TO: Pat Modugno, Chair  
Stephanie Pincetl, Vice Chair  
Esther L. Valadez, Commissioner  
David W. Louie, Commissioner  
Curt Pedersen, Commissioner

FROM: Jay Lee, AICP *JL*  
Community Studies North Section

**LOS ANGELES COUNTY DRAFT RENEWABLE ENERGY ORDINANCE – PROJECT NO.  
R2014-01160-(1-5) – APRIL 22, 2015 – AGENDA ITEM NO. 7**

## **INTRODUCTION**

The Renewable Energy Ordinance (Ordinance) is a Countywide ordinance that amends Title 22 (Planning and Zoning) of the Los Angeles County (County) Code to establish a set of procedures and standards for review and permitting of solar and wind energy projects. These include solar and wind projects generating energy for on-site (small-scale) or off-site (utility-scale) use as well as temporary meteorological towers.

## **PUBLIC HEARINGS**

A public hearing on the Ordinance and the Draft Environmental Impact Report (EIR) was held before your Commission on March 18, 2015 in Lancaster and April 8, 2015 in downtown Los Angeles. Two members of the public testified at the April 8, 2015 hearing via remote testimony from the County Department of Regional Planning (DRP) Antelope Valley Field Office and raised additional concerns regarding the Ordinance. Your Commission continued the matter to April 22, 2015 as recommended by staff.

## **PURPOSE OF THE ORDINANCE**

Over the past several years, local, state, and federal agencies have been tasked to improve their processes to facilitate renewable energy projects in response to opportunities provided to the emerging renewable energy industry through legislative mandates and incentive programs. The benefits of being less dependent on fossil fuels are clear, but careful thought is required to regulate these projects in an environmentally and community context-sensitive way.

Small-scale solar and wind energy projects that generate energy for on-site use, and structure-mounted projects are preferable to ground-mounted utility-scale projects because they have fewer impacts on the environment and surrounding communities.

Ground-mounted utility-scale solar and wind energy projects are a viable option for energy generation because they can produce large amounts of energy and are less environmentally intrusive than relying on fossil fuels. However, these projects are often located in undisturbed areas, whereas small-scale and structure-mounted projects have minimal impacts because they are located in developed areas and on buildings or other structures.

Therefore, the Ordinance has been developed to support renewable energy in a responsible and balanced manner. The Ordinance accomplishes this by:

1. Encouraging small-scale and structure-mounted projects, thereby reducing dependence on ground-mounted utility-scale projects; and
2. Better regulating ground-mounted utility-scale projects to minimize the associated impacts and address community concerns.

### **Encouraging Small-Scale and Structure-Mounted Projects**

The Ordinance encourages small-scale and structure-mounted projects, which promote distributed generation<sup>1</sup> and reduce dependence on ground-mounted utility-scale projects as sources for renewable energy. The Ordinance proposes a streamlined permitting process and includes minimal regulations to incentivize small-scale and structure-mounted projects over ground-mounted utility-scale projects.

#### **Small-Scale Solar Projects**

Permitting: The Ordinance streamlines the permitting process for small-scale solar projects. Those that are ground-mounted only require a Site Plan Review in most zones. Those that are structure-mounted only require approval from the County Department of Public Works (Public Works) Building and Safety (Building and Safety), and no DRP review, in most zones.

Regulations: The Ordinance provides minimal regulations for small-scale solar projects related to height and lot coverage.

#### **Structure-Mounted Solar Projects**

Permitting: The Ordinance streamlines the permitting process for structure-mounted utility-scale solar projects. The existing County Code requires a Conditional Use Permit (CUP) in most zones for all utility-scale solar projects, whether they are structure-

---

<sup>1</sup> Distributed generation is a term commonly used in the renewable energy field. It refers to smaller scale systems with the focus on providing for the energy needs for the use on site. This model creates a dispersed systems of small installations.

mounted or ground-mounted. The Ordinance will only require approval from Building and Safety, and no DRP review, for structure-mounted utility-scale solar projects. However, ground-mounted utility-scale solar projects will require a CUP in all zones where permitted.

**Regulations:** The Ordinance provides minimal regulations for structure-mounted solar projects related to height and setbacks from the perimeter of roofs.

### **Regulation of Ground-Mounted Utility-Scale Projects**

Although the Ordinance will reduce dependence on ground-mounted utility-scale projects by encouraging small-scale and structure-mounted projects, ground-mounted utility scale projects may remain a viable option in some cases. When projects of this type are proposed, this Ordinance would alert renewable energy developers to what will be required for approval. The past several years of permit processing experience with large ground-mounted, utility-scale solar projects has educated the County and the affected local communities on how to identify and address sensitive issues. We now have a better understanding of the cultural and environmental impacts of these large installations. This Ordinance incorporates the lessons learned, and provides measures that give assurances to local communities that certain impacts will be addressed for every project. This Ordinance will also alert renewable energy developers to the review system they must follow, and the types of conditions that will be imposed. The goal of this section of the Ordinance is to better regulate these projects and minimize the associated impacts.

### **Siting**

First and foremost, the Ordinance will limit the overall development of ground-mounted utility-scale projects in the County by directing these projects away from the most sensitive areas within the County.

These projects are prohibited in Significant Ecological Areas (SEAs), which are where the County's most valuable biological areas have been identified, and Economic Opportunity Areas (EOAs) identified in the draft Antelope Valley Areawide General Plan Update.

These projects are also prohibited in all residential zones and the A-1 (Light Agricultural), O-S (Open Space), and W (Watershed) zones, which are where the most sensitive land uses exist in the County.

### **Key Areas of Focus**

The Ordinance identifies development standards and standard conditions of approval for solar and wind energy projects. The extent of these standards and conditions reflect the level of regulation the County deems appropriate for the type of project. Therefore, minimal standards are proposed for small-scale and structure-mounted solar projects, as they are promoted within the Ordinance and reflect minimal associated impacts. Ground-mounted utility-scale solar and wind projects have extensive standards and conditions of approval, which reflect the appropriate careful review of these projects for environmental and community impacts.

For areas where ground-mounted utility-scale projects are allowed, the Ordinance will provide comprehensive and detailed regulations aimed at addressing specific issues and concerns raised from previous projects. Staff identified several key areas of focus for the utility-scale section of the Ordinance, which were previously described in more detail in the staff memo dated March 5, 2015:

- Dust Control
- Water Use
- Aesthetics
- Biota Impacts
- Safety, which includes aviation review (please see below)

Specifically related to safety and aviation, the Ordinance establishes a mandatory aviation review for utility-scale solar projects and all wind projects within a Military Installations and Operations Area or Airport Influence Area as identified by the General Plan or applicable Airport Land Use Compatibility Plan. This aviation review requires consultation with affected aviation-related agencies for any potential impacts to ensure the safety of residents and continued viability of military training and testing operations. These agencies include the Federal Aviation Administration, United States Navy, Edwards Air Force Base, Air Force Plant 42, California Department of Transportation Division of Aeronautics, Public Works Aviation Division, and DRP Airport Land Use Commission staff. Any comments received through consultation are required to be considered, and provided to the decision-making body.

The County Code currently has no regulations for utility-scale solar and wind projects. The Ordinance will provide regulations related to these key areas of focus, and many others to address issues and concerns.

### **Process**

In addition to the regulations in the Ordinance, there are other processes in place that can further regulate ground-mounted utility-scale projects. The Ordinance will apply Countywide and provide the minimum requirements for these projects. The CUP and California Environmental Quality Act (CEQA) processes will provide additional requirements to address context-sensitive concerns.

As mentioned previously, all ground-mounted utility-scale projects require a CUP. Additional conditions beyond the requirements of the Ordinance can be applied on a case-by-case basis through the CUP process. The CUP process also allows for input from the public, which can propose conditions that address issues relevant to particular communities and site-specific considerations.

All ground-mounted utility-scale projects will also be subject to CEQA, with necessary project-specific mitigation measures applied on a case-by-case basis. Although the Ordinance provides regulations to minimize impacts associated with these projects, it cannot fully address issues that are regulated by other agencies. CEQA review addresses these issues through agency consultation, detailed analysis, and site-specific mitigation that the Ordinance cannot address on its own.

## **RESPONSE TO COMMENTS**

During the March 18 and April 9 hearings, your Commission raised questions for staff and the public raised various issues and concerns. Staff also received comments regarding the Ordinance through written correspondence. The latest written correspondence was included in the Staff Memo submitted to your Commission on March 26, 2015. Additional correspondence received since then is attached to this Staff Memo.

Staff has further evaluated the comments regarding the applicability of Community Standards Districts (CSDs), and the size of small-scale solar and wind energy systems. Responses to these comments are below.

### **Applicability of CSDs**

Members of the public have expressed concern over language in the Ordinance regarding the applicability of CSDs (subsection B of Section 22.52.1605). There was concern raised that the Ordinance would preempt CSDs, and exempt solar and wind energy projects from CSD regulations.

However, this was never the intent of the Ordinance. Based on our understanding of the community's concerns, the Ordinance has been revised to clarify that for utility-scale projects, where the Ordinance and CSDs regulate the same matter, whichever provision is more restrictive shall apply pursuant to Section 22.04.050 of the County Code, except for wind tower height, height for structure-mounted projects, and fence height. County Code provisions must also comply with applicable State regulations, as further described in the staff memo dated April 2, 2015.

### **Small-Scale Solar and Wind Energy Systems**

Members of the public have expressed concern over the size limits of small-scale solar and wind projects. There is concern that the maximum lot coverage for ground-mounted small-scale solar projects is too large, and that the maximum rated capacity for small-scale wind projects is also too large. If too large, the concern is that these would allow for small-scale solar and wind projects that generate much more energy than typically needed for single-family residences and other buildings allowed in residential and agricultural zones with a relatively low on-site energy demand.

Subsection B.1 of Section 22.52.1615 of the Ordinance establishes a maximum lot coverage of 25 percent of the parcel or 2.5 acres, whichever is lesser, for ground-mounted small-scale solar projects. A wide range in size for these systems is provided as they can be installed for single-family residences as well as energy-intensive uses such as institutions and large warehouse distribution centers. Encouraging on-site generation for these energy-intensive uses is one of the goals of this Ordinance. This threshold however, is included to minimize ground disturbance for large systems by promoting structure-mounted solar for large energy-intensive buildings, such as commercial, industrial or institutional buildings, which could be quite large in scale. A smaller threshold would limit the energy generating potential of larger systems for on-

site use, and would not encourage distributed generation. This threshold balances encouraging distributed generation with minimizing ground disturbance. Furthermore, this threshold will not allow for much more energy generation than needed for lower energy demand uses such as single-family residences. The Ordinance requires small-scale solar energy systems to generate energy primarily for on-site use, and projects would need to be sized accordingly.

Section 22.08.190 of the Ordinance provides a definition of small-scale wind energy system that establishes a maximum rated capacity of 50 kilowatts (kW). California Government Code Section 65894 and Section 25744 of the California Public Resources Code both establish a maximum rated capacity of 50 kW for small-scale wind energy systems. The maximum rated capacity for small-scale wind energy systems established in the Ordinance is consistent with the State's definition of small-scale wind energy systems.

### **Other Issues**

There are other issues raised by the public that require further discussion. These issues include dust control, water use, landscaping, noise, impacts to birds and bats, glare, inadequate setbacks, open space conservation, and other issues related to impacts, permitting, and general concerns. Further discussion of how the Ordinance addresses these issues will be included in a supplemental memo to your Commission.

### **REVISED ORDINANCE**

Based on staff review of the questions and concerns raised during the public hearing and through correspondence, there will be additional modifications recommended for the Ordinance. A further discussion of these modifications along with a revised Ordinance will also be included in the supplemental memo to your Commission.

MC:SMT:JL

Attachment: Additional Correspondence

**ATTACHMENT: ADDITIONAL  
CORRESPONDENCE**







State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201  
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



April 6, 2015

Mr. Jay Lee  
Los Angeles County Dept. of Regional Planning  
3200 West Temple Street, Room 1354  
Los Angeles, CA 90012  
Jalee@planning.lacounty.gov

**Subject: Comments on the Los Angeles County Renewable Energy Ordinance Draft Environmental Impact Report, Los Angeles County; (SCH#2014051016)**

The Department of Fish and Wildlife (Department) has reviewed the Draft Environmental Impact Report (DEIR) for amendments to Title 22 of the Los Angeles (L.A.) County Code (Ordinance) to establish regulations for the development of small-scale wind and solar energy systems, utility-scale wind and solar facilities, and temporary meteorological (MET) towers. The proposed Ordinance would provide a set of definitions, procedures and standards for review and permitting of solar, wind energy systems and facilities.

**Project Description**

Under the proposed project, the Los Angeles County Department of Regional Planning (Lead Agency) would amend Title 22 of the Ordinance and consists of clarifications, deletions and revisions to provide an updated set of definitions, procedures and standards to the Ordinance. The proposed project would:

1. Amend Title 22, Planning and Zoning, Chapter 22.08, Definitions, to add definitions related to renewable energy systems and facilities (e.g. decommissioning, guy wires, small-scale solar energy systems, small-scale wind energy systems, utility-scale ground-mounted renewable energy facilities, utility-scale structure-mounted renewable energy facilities, and temporary MET towers);
2. Amend Title 22, Planning and Zoning, to establish the permitting process for each type of renewable energy system in each zone; and
3. Revise Part 15 of the Zoning Code to create a Renewable Energy section that would establish regulations for:
  - a. Small-scale renewable energy systems;
  - b. Utility-scale renewable energy facilities; and,
  - c. Temporary MET towers.

The provisions of Part 15 would not apply to renewable energy systems and facilities that were approved prior to the effective date of the Zoning Code. However, any subsequent modification or alteration to increase the physical size, height, footprint, or change the type of equipment of previously approved renewable energy systems or facilities would need to comply with the Ordinance.

### Department Jurisdiction

The following statements and comments have been prepared pursuant to the Department's authority as a Trustee Agency with jurisdiction over natural resources affected by the Ordinance (CEQA Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the Ordinance that fall under the purview of the California Endangered Species Act (CESA, Fish and G. Code § 2050 *et Seq.*) and Fish and Game Code section 1600 *et Seq.* The Department also administers the Natural Community Conservation Planning Act (NCCP).

### Fully Protected Species

Nine fully protected species, susceptible to impacts from renewable energy and transmission development, are known within Los Angeles County (County) including: golden eagle (*Aquila chrysaetos*), white-tailed kite (*Elanus leucurus*), American peregrine falcon (*Falco peregrinus anatum*), unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), California condor (*Gymnogyps californianus*), California black rail (*Laterallus jamaicensis coturniculus*), desert bighorn sheep (*Ovis canadensis nelsoni*), Mohave tui chub (*Siphateles bicolor mohavensis*), and California least tern (*Sternula antillarum browni*). The Department has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles and fish pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Except as provided in the Fish and Game Code (e.g., for necessary scientific research), take of fully protected species is prohibited and cannot be authorized by the Department.

### CESA Listed and Other Rare Listed Species

Renewable energy projects and transmission lines, regardless of size, has the potential to reduce populations or restrict the range of the following endangered, rare or threatened species (CEQA Guidelines § 15380) which are present within the region: bald eagle (*Haliaeetus leucocephalus*), bank swallow (*Riparia riparia*), California Orcutt grass (*Orcuttia californica*), Catalina Island mountain-mahogany (*Cercocarpus traskiae*), desert tortoise (*Gopherus agassizii*), Gambel's water cress (*Nasturtium gambelii*), least Bell's vireo (*Vireo bellii pusillus*), Lyon's pentachaeta (*Pentachaeta lyonii*), Mohave ground squirrel (*Xerospermophilus mohavensis*), Mohave tui chub (*Siphateles bicolor mohavensis*), Mt. Gleason paintbrush (*Castilleja gleasoni*), Nevin's barberry (*Berberis nevinii*), salt marsh bird's-beak (*Chloropyron maritimum ssp. Maritimum*), San Clemente Island bedstraw (*Galium catalinense ssp. acrispum*), San Clemente Island bush-mallow (*Malacothamnus clementinus*), San Clemente Island fox (*Urocyon littoralis clementae*), San Clemente Island larkspur (*Delphinium variegatum ssp. kinkiense*), San Clemente Island lotus (*Acmispon dendroideus var. traskiae*), San Clemente Island woodland star (*Lithophragma maximum*), San Fernando Valley spineflower (*Chorizanthe parryi var. Fernandina*), Santa Catalina Island fox (*Urocyon littoralis catalinae*), Santa Susana tarplant (*Deinandra minthornii*), slender-horned spineflower (*Dodecahema leptoceras*), southern mountain yellow-legged frog (*Rana muscosa*), southwestern willow flycatcher (*Empidonax traillii extimus*), Swainson's hawk (*Buteo swainsoni*), thread-leaved brodiaea (*Brodiaea filifolia*), tricolored blackbird (*Agelaius tricolor*), and western yellow-billed cuckoo (*Coccyzus americanus occidentalis*). Additional endangered, rare or threatened species are also known to be present in the region that the Ordinance may impact.

### General Avian Protection

The Department has jurisdiction over actions that may result in the disturbance or destruction of nests, migratory non-game birds or the unauthorized take of CESA-listed avian species. The

pertinent sections of the Fish and Game Code that protect avian species, their eggs, and nests include sections: 3503, regarding unlawful take of, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any bird-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory non-game birds).

#### **Department Comments**

The Department provided comments on June 2, 2014 to the Ordinance during the Notice of Preparation (NOP) process. The Department appreciates the Lead Agency's consideration of our comments, and incorporation of many of them into the Ordinance. The Department remains concerned about previous comments which were not incorporated. Those concerns are echoed within this correspondence.

The Department is concerned that the baseline assessments and evaluations of potential impacts to biological resources are not included in the administrative actions "by right" (per the Ordinance) or under ministerial actions associated with a Zoning Conformance Review (ZCR). We are also concerned that specific standards, including those for avoiding and minimizing impacts are not included under the ministerial process. The Department offers the following comments and recommendations to assist the Lead Agency in minimizing potential impacts to biological resources are avoided or minimized.

#### **MET towers**

1. Small-scale ground-mounted wind energy systems are not permitted within 300 feet or five times the tallest wind tower height of bat roosting sites, recorded open spaces and publicly designated preserve areas, riparian and wetland areas or within 1 mile of a known golden eagle nest site (Table 3-3 *Environmental Design Considerations*). As currently proposed, this provision does not apply to small-scale structure-mounted wind energy systems or any meteorological (MET) tower.

As previously commented during the NOP process, guy wires (Longcore, 2008) and constant-burn lighting associated with MET towers is a significant source of avian collision and mortality (Gehring, 2009). With this in mind, the Department recommends that the Ordinance require MET towers utilize the identical setback as their respective scale wind turbines described above.

2. In addition to requiring setbacks for MET towers, the Department recommends that the Ordinance require flashing lights on all MET towers. Per Gehring et al, 50-71% of avian fatalities at guyed communication towers were avoided by removing non-flashing red lights. Due to their potential to significantly impact bird and bat populations, the same avoidance and minimization measures should be applied to the siting of MET towers as those of wind turbines.

#### **Wind Turbine Setbacks**

3. Sections 57, 58, and 59, of 22.44.113 and section 61 of 22.44.144 of the Ordinance requires that the highest point of any small-scale wind energy systems are located at least 50 vertical and 50 horizontal feet from a significant ridgeline..." According to the California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development, several studies have suggested that wind turbines along ridges may significantly impact migrating birds, in part, because migrating birds may have a lower migrating altitude than

their typical cruising altitude when crossing a ridge or pass. The Department has continued concerns regarding potential avian collisions and migratory disruptions as a direct result of locating wind turbines, small-scale or utility-scale systems within near proximity of ridgelines or migratory paths. For the Sections listed above, the Department recommends adopting the same setback standards specified for small-scale ground-mounted wind energy facilities which are not permitted within 300 feet or five times the tallest wind tower height of bat roosting sites, recorded open spaces, publicly designated preserve areas, riparian and wetland areas or within 1 mile of a known golden eagle nest site.

#### **Recommendations to the Ordinance and Review Process**

4. The Department recommends that the DEIR include a flow chart illustrating the Lead Agency's project review protocol for each solar or wind renewable energy proposal including small-scale structure-mounted systems, small-scale ground-mounted solar energy systems, temporary MET towers, utility-scale structure-mounted facilities, and utility-scale ground-mounted facilities. All applicable processing forms (e.g., ZCR, site plan review, MUP, CUP) should be included as appendices to the flowchart. The forms should indicate whether they have been amended to accommodate the Ordinance in redline and strikeout text.
5. Impact BIO-1 identifies that small-scale solar energy systems and utility-scale structure-mounted solar energy facilities would have the potential to have potentially significant impacts before mitigation (DEIR, p. 4.4-46). However, the Ordinance allows small-scale ground-mounted solar energy systems and utility-scale structure-mounted solar energy facilities to be processed under a ZCR. The ZCR does not include an Environmental Assessment Form (similar to a Minor Conditional Use Permit or Conditional Use Permit) which assists in identifying biological resources specific to the project site. Absent site specific knowledge of the potential biological resources, the Department does not believe that mitigation measures addressing potentially significant impacts to biological resources can be reasonably ascertained or avoided under a ZCR. Therefore, the Lead Agency should develop and adopt feasible biological mitigation measures to address projects subject to a ZCR review process.
6. Section 22.08.040 D includes "site restoration" within the definition of "Decommissioning". The Department appreciates the inclusion of a restoration component of the Ordinance; however, the Department recommends the Lead Agency include "the restoration of the species, habitats, natural hydrology, and functions of the project site equal to or better than pre-project condition as documented in a baseline environmental report" within the definition of Decommissioning.

#### **Consistency with Existing Laws and Regulations**

7. Table 3-3 *Environmental Design Considerations* does not identify biological concerns for small-scale solar energy systems. However, under the Ordinance small-scale solar energy systems could disturb as much as 2.5 acres of habitat supporting special status species (e.g., State-threatened or -endangered, species of special concern, or rare listings). While the DEIR states that small-scale solar energy projects would require CEQA review in more sensitive areas (e.g., open space zones and watershed zones) where avoidance minimization and mitigation measures for special-status species would be applied, these mitigation measures would not apply to areas outside of open space and watershed zones. The Department is concerned that a project proponent may misconstrue the

Ordinance as allowing impacts to fish and wildlife resources which are protected by other statutes or laws. The Department recommends that the Lead Agency clearly incorporate a disclaimer to the end user notifying proponent of relevant laws and regulations including Fish and Game Code section 2050 *et seq.*, Fish and Game Code section 3503, Fish and Game Code section 3503.5, Fish and Game Code section 1600 *et seq.*, State fully protected species (Fish and G. Code §§ 3511, 4700, 5050, and 5515) and the California native plant protection act (Fish and G. Code § 1900*et Seq.*).

### **Cumulative Impacts**

8. The DEIR indicates that it is programmatic in nature and that certain subsequent renewable energy projects would require discretionary review permits thereby triggering CEQA review. The DEIR also acknowledges that the Ordinance may directly, indirectly, or cumulatively result in significant impacts. However, the Ordinance allows small-scale solar and certain utility-scale structure mounted solar without discretionary permits or CEQA review if they meet the requirements of the Zoning Code amendments with three exceptions (p. 68, 2.3. *Scope of the EIR*).

*"Alternatively, the proposed project would allow for the development of small-scale solar energy systems and utility-scale structure-mounted solar energy facilities without discretionary permits or CEQA review if they meet the requirements of the proposed Zoning Code amendments, with the following exceptions: (1) future small-scale ground-mounted systems proposed in Open Space (O-S) or Watershed (W) zones would require a Minor Conditional Use Permit (CUP) and would therefore undergo future CEQA review on a project-specific level at the time the discretionary permit is processed; (2) future utility-scale structure-mounted solar energy facilities would be prohibited in O-S and W zones; and (3) future utility-scale structure-mounted solar energy facilities proposed in Single-Family Residence (R-1) zones would require a CUP and would therefore undergo future CEQA review on a project-specific level at the time the discretionary permit is processed. Therefore, the environmental review completed as part of this EIR is prepared at a project-specific level for these components that do not require further CEQA review using the information available from the proposed Zoning Code amendments and knowledge of such systems and facilities that have already been developed in the County or other jurisdictions."*

This condition allows the administrative or ministerial approval of projects with three exceptions. Per the Ordinance, small-scale ground-mounted solar energy systems allow a maximum lot disturbance of 2.5 acres which, absent the exceptions identified above, allows the development without further CEQA review. The Department is concerned that the 2.5 acre maximum allowable footprint of ground-mounted small-scale solar energy systems is too large an area of impact to be processed without review or a discretionary action. The Lead Agency should demonstrate that 2.5 acres does not exceed a reasonable need for small-scale ground-mounted solar energy systems. To reduce potential cumulative impacts, the condition should be revised to specify that the ministerial approval applies to "development of small-scale *structure-mounted* solar energy systems and utility-scale structure-mounted solar energy facilities without discretionary permits or CEQA review..."

9. Page 78 of section 3.3.3, Key Renewable Energy Resource Areas states "The majority of the unincorporated urban islands are built out, so land available for renewable energy development would primarily consist of rooftops, backyard areas, and pockets of undeveloped hillsides." The Department is concerned that traditionally undeveloped open spaces would be developed under ministerial approval without regard to their regional importance to local biota, their habitats and movements. The Department recommends the DEIR describe the Ordinance's consistency with Los Angeles County General Plan, Conservation and Open Space Element (1980): "Many Biotic resources of the County have been lost due to the encroachment of urban and agricultural development. These resources are especially vulnerable to destruction as a result of unmanaged development".
10. Facilities with relatively small impacts should not be exempted from mitigating on an individual basis when their cumulative impact over the duration of the Ordinance may be significant. Should the Ordinance continue to allow ground disturbing projects under an administrative process the Department recommends the Lead Agency track the total acreage of sensitive habitat impacted under the administrative and ministerial processes and provide and track appropriate mitigation. Impacts and mitigation should be made available to the public and the Department.

#### **Preservation**

11. The Natural Community Conservation Plan (NCCP) Act is a planning tool which promotes coordination and cooperation among public agencies, land owners, and other private interests by promoting the conservation of natural habitats to ensure that a project's mitigation is roughly proportional to those of the project's impacts. Under an NCCP, an established preserve system provides surety that areas of natural habitats intended to offset development impacts are provided necessary to ensure that the public's fish and wildlife resources are protected. Owing to the fact unincorporated Los Angeles County does not have a draft or approved NCCP or established preserve system, the public nor Department have reasonable assurances that administrative or ministerial projects pursuant the Ordinance would appropriately minimize and offset impacts to fish and wildlife resources. The Department recommends that the DEIR include a discussion of how the incremental impacts to biological resources resulting from administrative and ministerial projects are comprehensively mitigated.

#### **Transmission**

12. In accordance with section 3.3.2.3 Standards for Utility-Scale Ground-Mounted Renewable Energy Facilities "...all equipment and accessory structures related to the facility, including but not limited to solar collector arrays, wind turbines, mounting posts, substation, electrical infrastructure, transmission lines, operations and maintenance buildings, and other accessory structures." This approach allows very little influence on the siting of appurtenances, including transmission lines, which could result in miles of linear impacts to biological resources. The scope of the impacts associated with the supporting infrastructure cannot be reasonably anticipated. Given the breadth of the potential impacts, the Department recommends defining limits for appurtenance impacts. Without having significant preservation commitments prior to implementing such an ordinance, the Department recommends that the Lead Agency does not adopt the Ordinance without first identifying a comprehensive mitigation strategy capable of absorbing the varied impacts that would result from adopting the Ordinance.

Mr. Jay Lee  
Los Angeles County Dept. of Regional Planning  
April 6, 2015  
Page 7 of 8

13. On-site and off-site transmission lines are required to be placed underground to the satisfaction of the Los Angeles County Department of Public Works, except where above ground crossings are required. Although the Ordinance does not specify a trigger for when an above ground transmission line would be required (the Department recommends that a trigger mechanism provided in the Ordinance). It should be stipulated that the provision shall not be construed to direct unauthorized Take (Fish and G. Code § 86) of any fully protected (Fish and G. Code §§ 3511, 4700, 5050, and 5515), endangered, rare, or threatened species (CEQA Guidelines § 15380).

**Coastal Impacts**

14. The DEIR specifies that "...the Coastal Islands are limited in the availability of both land and structures for ground-mounted and structure mounted energy. However, small systems could be implemented on structures and on the small areas of ground that may be available" (p. 75, 3.2.3 Planning Area Context). Given the limited availability of land within the Coastal Islands, the Department believes that only structure-mounted energy generation would be appropriate for coastal islands.

Thank you for the opportunity to comment on the L.A. County Renewable Energy Ordinance, DEIR. Questions regarding this letter and further coordination regarding these issues should be directed to Eric Weiss, Senior Environmental Scientist at [Eric.Weiss@wildlife.ca.gov](mailto:Eric.Weiss@wildlife.ca.gov) or (858) 467-4289.

Sincerely,



Betty J. Courtney  
Environmental Program Manager I  
South Coast Region

ec: State Clearinghouse, [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)  
Erinn Wilson, [Erinn.Wilson@Wildlife.ca.gov](mailto:Erinn.Wilson@Wildlife.ca.gov)  
Scott Harris, [Scott.P.Harris@wildlife.ca.gov](mailto:Scott.P.Harris@wildlife.ca.gov)  
Eric Weiss, [Eric.Weiss@wildlife.ca.gov](mailto:Eric.Weiss@wildlife.ca.gov)  
Loni Adams, [Loni.Adams@wildlife.ca.gov](mailto:Loni.Adams@wildlife.ca.gov)  
Jan Zimmerman, [JZimmerman@waterboards.ca.gov](mailto:JZimmerman@waterboards.ca.gov)

Mr. Jay Lee  
Los Angeles County Dept. of Regional Planning  
April 6, 2015  
Page 8 of 8

**References:**

CEC and DFG, 2007. California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development. Commission Final Report. California Energy Commission, Renewables Committee, and Energy Siting Division, and California Department of Fish and Game, Resources Management and Policy Division. CEC-700-2007-008-CMF.

County of Los Angeles 1980. County of Los Angeles General Plan Conservation and Open Space Element. P. 16

Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

Dudek, February 2015. *Draft Environmental Impact Report, Los Angeles County Renewable Energy Ordinance.*

Gehring Joelle, Kerlinger Paul, Manville Albert M. 2009. Communication towers, lights, and birds: successful methods of reducing the frequency of avian collisions. *Ecological Applications*, 19(2), 2009, pp. 505-514.

Grief, Stefan and Siemers, Björn M. "Innate recognition of water bodies in echolocating bats." *Nature Communications* November 2010.

Horváth, Gábor; Kriska, György; Malik, Péter; and Robertson, Bruce, 2009. "Polarized light pollution: a new kind of ecological photo pollution." *Front Ecol Environ* 2009; 7(6): 317-325, doi: 10.1890/080129.

Kerlinger, P., R. Curry, L. Culp, and A. Hasch. 2008. Pre-construction meteorological tower fatality study Shiloh II wind power project, Solana County, California. Prepared by Curry and Kerlinger, LLC for Enxco.

Longcore, T., C. Rich, S. A. Gathreaux Jr. 2008. Height, guy wires, and steady-burning lights increase hazard of communication towers to nocturnal migrants: a review and meta-analysis. *The Auk* 125:485-492.





DEPARTMENT OF PARKS AND RECREATION  
Tehachapi District  
15101 Lancaster  
Lancaster, CA 92536  
(661) 724-1206 \* Fax (661) 724-1176

Lisa Ann L. Mangat, *Acting Director*

April 6, 2015

Jay Lee  
Department of Regional Planning  
320 West Temple St, Room 1354  
Los Angeles, CA 90012

RE: Draft Environmental Impact Report (DEIR) SCH #2014051016 for Los Angeles County's Renewable Energy Ordinance

Dear Mr. Lee,

The Tehachapi District of the California Department of Parks and Recreation (State Parks) appreciates the opportunity to comment on the Draft Environmental Impact Report for the County's Renewable Energy Ordinance.

State Parks is a State Agency as defined by the California Environmental Quality Act (CEQA) § 21082.1, a Trustee Agency as used by CEQA, its Guidelines and as defined by CCR § 15386 for the resources affected by this proposed project. Our mission is to provide for the health, inspiration, and education of the people of California by helping preserve the state's extraordinary biodiversity, protecting its most valued natural and cultural resources, and creating opportunities for high quality outdoor recreation.

As the governmental entity responsible for the stewardship of the following State Parks:

Antelope Valley California Poppy Natural Reserve  
Antelope Valley Indian Museum State Historic Park  
Arthur B. Ripley Desert Woodlands State Park  
Saddleback Butte State Park

We have a strong interest and concern about contemplated alterations of land use adjacent to these State Parks. The long-term health of the State Parks are dependent on the health of the area's ecosystems because the biotic boundaries of these State Parks extend beyond its jurisdictional boundaries and must be managed with an eye towards regional concerns.

We have detailed our concerns and comments below.

State Parks recommends that the County consider only alternatives which avoid direct and indirect impacts to the above mentioned State Parks and other critical publicly and privately protected conservation lands within the Western Mojave Desert in order to avoid habitat fragmentation and degradation of natural and visual resource values.

State Parks are by definition, areas of outstanding scenic or natural character, containing significant historical, archaeological, ecological, geological, or other similar values. The purpose of State Parks is to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California. Therefore, by their very nature parks, once degraded by intrusive influences, cannot be easily replaced.

We recommend that the Reduced Utility –Scale Solar and Wind Energy Facilities Alternative be adopted as the preferred plan for the County's Renewable Energy Ordinance.

## **BIOLOGICAL**

### ***Foraging Habitat – Fragmentation***

We are concerned that Utility–Scale Wind and Solar Energy projects could significantly impact the State Parks by interrupting wildlife movement corridors and by removing foraging and nesting habitats for wildlife that also use those lands. Disruption of movement patterns by proposed projects could alter essential ecosystem functions, such as predator-prey relationships, gene flow, pollination and seed-dispersal, competitive or mutualistic relationships among species. It is our expert opinion if core habitat areas become islands with no connecting landscape to allow movement of species, they will not be able to continue to support the animals and plants that currently reside within them.

The Department is concerned with the unavoidable adverse impacts of habitat, including the loss of sensitive plant communities, which contains a conspicuous display of wildflowers and other annual grasslands (Antelope Valley California Poppy Natural Reserve, Antelope Valley Indian Museum State Historic Park, Arthur B. Ripley Desert Woodland State Park and Saddleback Butte State Park).

This habitat is extremely important due to its location of being adjacent to the State Parks. These lands are used for foraging, dispersal and cover by small and large mammals, foraging raptors and other wildlife.

This permanent unavoidable adverse impact will result an irreversible change that will have a direct adverse effect to vegetation communities that are currently being used and are occupied by special-status species including, but not limited to: the Mojave desert tortoise, Mohave ground squirrel, American badger, silvery legless lizard, coast horned lizard, western burrowing owl, loggerhead shrike, Le Conte's thrasher, and other birds and raptors protected by the Migratory Bird Treaty Act and various California Fish and Game Codes.

Development of renewable energy facilities and associated infrastructure will contribute to the establishment and spread of weed species which are already a major threat to desert ecosystems.

We are concerned that construction activities and soil disturbance will introduce new noxious weeds that may spread to the State Parks. Resource management policies for State Parks direct us to preserve and restore indigenous plants and animals, while systematically removing populations of exotics. We believe that the spread of invasive

plants such as Bermuda grass (*Cynodon dactylon*), erodium, Mediterranean barley (*Hordeum marinum*), fescue (*Vulpia* spp.), Mediterranean grass, Russian thistle (*Salsola tragus*), and red brome from the proposed projects could be a major threat to the State Parks that could affect many special-status plant and wildlife species within the State Parks.

This is a significant and unavoidable impact. We request that no proposed projects be located adjacent to the State Parks. Additional lands should be purchased to mitigate these concerns.

## **LAND USE**

Based on our review of the DEIR we are pleased that County's Renewable Energy Ordinance will be consistent with the relevant goals and policies of the County's Draft Antelope Valley Area Plan, including:

Policy COS 13.1: Direct utility-scale renewable energy production facilities, such as solar facilities, to locations where environmental, noise, and visual impacts will be minimized.

Policy COS 13.5: Where development of utility-scale renewable energy production facilities cannot avoid sensitive biotic communities, require open space dedication within Significant Ecological Areas as a mitigation measure.

Policy COS 13.6: Ensure that all utility-scale renewable energy production facilities, such as solar facilities, do not create land use conflicts with adjacent agricultural lands or existing residential areas in the vicinity. Require buffering and appropriate development standards to minimize potential conflicts.

Policy COS 13.7: Limit the aesthetic impacts of utility-scale renewable energy production facilities to preserve rural character.

Policy COS 13.8: Coordinate with other jurisdictions to plan for utility-scale renewable energy production facilities in order to minimize impacts to sensitive biotic communities and existing residential areas.

Goal COS 14: Energy infrastructure that is sensitive to the scenic qualities of the Antelope Valley and minimizes potential environmental impacts.

Policy COS 14.1: Require that new transmission lines be placed underground whenever physically feasible.

We support that the ordinance will prohibit all utility-scale renewable energy facilities and small-scale wind energy systems within the open space areas and in designated Significant Ecological Areas within the Antelope Valley.

## **VISUAL RESOURCES**

We are concerned that Utility –Scale Wind and Solar Energy projects will cause substantial degradation of the existing visual character to the visual resources of several State Parks within the West Mojave and Eastern Slopes Ecoregion Subarea including but not limited to: Antelope Valley California Poppy Natural Reserve, Antelope Valley

Indian Museum State Historic Park, Arthur B. Ripley Desert Woodland State Park and Saddleback Butte State Park.

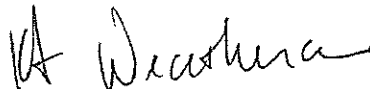
Once again based on our review of the DEIR we are pleased that County's Renewable Energy Ordinance will be consistent with the relevant goals and policies of the County's Draft Antelope Valley Area Plan, which seeks to reduce impacts to scenic vistas by setting aside extensive areas for conservation that include open space designations within the Angeles National Forest and the implementation of policies that preserve views by preventing the introduction of urban land uses in SEAs, near scenic hillsides, on ridgelines and within Scenic Resource Areas.

#### **MANDATORY FINDINGS OF SIGNIFICANCE**

The Department recommends the adoption of the Reduced Utility –Scale Solar and Wind Energy Facilities Alternative as the preferred plan for the DEIR. This will help reduce the impacts to State Parks, which will avoid the interruption of an important habitat linkage and protect open spaces areas, preserve important significant scenic resources and will consistent with land use policies and goals of the Department and the Draft Antelope Valley Area Plan.

Once again, we appreciate the opportunity to comment on the proposed DEIR. As we have outlined in our comments, there are a number of significant issues related to the State Parks. It is important that all land use decisions adjacent to the State Parks be compatible with the preservation of the tremendous resources found there. For further discussion, please feel free to contact me or Russ Dingman, Staff Environmental Planner, at (661) 724-2380.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Weatherman". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Kathy Weatherman  
District Superintendent



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY  
1160 NICOLE COURT  
GLEN DORA, CA 91740  
(626) 793-9364 – FAX: (626) 793-9461  
www.scppa.org

ANAHEIM • AZUSA • BANNING • BURBANK • CERRITOS  
COLTON • GLENDALE • LOS ANGELES • PASADENA  
RIVERSIDE • VERNON • IMPERIAL IRRIGATION DISTRICT

April 6, 2015 | Submitted Electronically

Mr. Jay Lee  
Department of Regional Planning  
County of Los Angeles  
320 West Temple Street, 13<sup>th</sup> Floor  
Los Angeles, CA 90012

**Re: SCPPA Comments on the Draft Environmental Impact Report (Draft EIR) for the Proposed Los Angeles County Renewable Energy Ordinance**

Thank you for the opportunity to provide comments on Los Angeles County's Draft EIR and the third draft of the "Renewable Energy Ordinance" that would impact 2,583 square miles of unincorporated portions of the County. While we greatly appreciate the County's goal to help facilitate the development of renewable energy within the County to help meet the goals of the Global Warming Solutions Act of 2006 (AB 32) while providing baseline standards for solar and wind energy projects, we believe that the revised proposal may still **deter renewables development in the County**.

The Southern California Public Power Authority (SCPPA) is a joint powers authority consisting of eleven municipal utilities and one irrigation district. Our Members deliver electricity to approximately two million customers over a 7,000 square mile area, with a total population of 4.8 million people. Seven SCPPA municipal utilities are located in Los Angeles County.

SCPPA Members appreciate the County's desire to provide formal definitions, procedures, and standards for review and permitting of solar and wind energy systems and facilities and temporary meteorological towers. However, we believe that the Draft EIR fails to adequately assess the potential project feasibility impacts of implementing the proposed Renewable Energy Ordinance. The requirement that on-site and off-site transmission lines "shall be placed underground to the satisfaction of the Department and Department of Public Works, except where above-ground crossings are otherwise required (such as over the California Aqueduct)" is particularly problematic. The County has not adequately assessed the operational nor the physical limitations associated with such a requirement that would be placed upon projects that are fundamentally developed to help meet environmental goals. Such a requirement would make it infeasible (if not impossible) to site utility-scale solar and wind projects throughout important portions of potentially ideal space to help utilities meet the County's energy needs in an environmentally sustainable and cost-effective manner close to constituent populations.

Publicly-owned utilities are heavily regulated at the local, regional, state, and federal levels towards procuring renewable energy resources and/or complying with aggressive emissions reduction goals. For example, the California Energy Commission oversees implementation of the State's ambitious 33% by the end of 2020 Renewables Portfolio Standard (RPS) goal. The law directed the Energy Commission to adopt new regulations specifying RPS enforcement procedures for publicly-owned utilities, and to certify and verify eligible renewable resources and to monitor compliance. SCPPA Members are working diligently to implement a wide range of mandatory programs towards reducing greenhouse gases to meet California's RPS and AB 32 goals, and are on target to meet or exceed the requirements. California will also be required to meet new federal Clean Air Act standards to reduce power plant emissions under the pending Section 111(d) standards.

SCPPA remains concerned that the proposed revised ordinance will **deter** renewable project investments in the County. An Ordinance that would add unduly burdensome requirements would likely make many future renewables projects so expensive that very few, if any, prospective buyers would be willing to purchase the power. Dramatically increasing the cost of renewables, especially for SCPPA Members interested in affordable local renewables projects, would have a detrimental impact on ratepayers, small- and medium-sized renewables developers, and do little to further air quality improvements.

SCPPA urges the County to give careful consideration to the long-term consequences of such an ordinance, particularly given the rapidly-growing development of renewable energy projects throughout California as the State pursues development and implementation of a 50% renewables goal. Los Angeles County must play an important role in achieving (not impeding) such an ambitious target.

SCPPA appreciates the opportunity to provide these comments. Thank you for your time and consideration.

Respectfully submitted,

A handwritten signature in black ink, reading "Tanya DeRivi". The signature is written in a cursive, flowing style.

Tanya DeRivi  
Director of Government Affairs



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

---

## Lahontan Regional Water Quality Control Board

April 3, 2015

File: Environmental Doc Review  
Los Angeles County

Jay Lee  
Los Angeles County Department of Regional Planning  
320 W. Temple Street, 13<sup>th</sup> Floor  
Los Angeles, CA 90012  
Email: [jalee@planning.lacounty.gov](mailto:jalee@planning.lacounty.gov)

### **COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE LOS ANGELES COUNTY RENEWABLE ENERGY ORDINANCE, LOS ANGELES COUNTY, STATE CLEARINGHOUSE NO. 2014051016**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Draft Environmental Impact Report (DEIR) for the above-referenced ordinance (Ordinance) on February 23, 2015. The DEIR was prepared by the Los Angeles County Department of Regional Planning (County) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). The Ordinance will establish regulations, including development standards, for the development of renewable energy projects in unincorporated areas where the County has land use jurisdiction. Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. Water Board staff commented on the Notice of Preparation of the DEIR in a letter dated June 3, 2014. We appreciate that the DEIR addressed some of our concerns raised in our previous letter, but two issues in that letter were apparently not addressed: (1) promote and provide incentives for use of previously disturbed lands for ground-mounted renewable energy projects, and (2) incorporation of the State Water Resources Control Board policy on use of recycled water, for construction and maintenance of renewable energy projects. Our comments on the DEIR are outlined below.

### **AUTHORITY**

All groundwater and surface waters are considered waters of the State. Surface waters include streams, lakes, ponds, and wetlands, and may be ephemeral, intermittent, or perennial. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the U.S. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the U.S.

AMY L. HORNE, PhD, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

14440 Civic Drive, Suite 200, Victorville, CA 92392 | [www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan)

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/basin\\_plan/references.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml).

Los Angeles County is located within the jurisdiction of multiple Regional Water Boards. The Antelope Valley and the watersheds that drain towards the Antelope Valley are within the jurisdiction of the Lahontan Water Board. We request that the DEIR recognize that the Ordinance falls under the jurisdiction of multiple Water Boards and that a copy of the DEIR be made available to the appropriate Water Boards and the State Water Resources Control Board (State Water Board) for review and comment.

### **RECOMMENDED ELEMENTS TO INCLUDE IN THE ORDINANCE**

The goal of the Ordinance is to establish regulations and development standards for small-scale and utility-scale renewable energy projects in unincorporated areas of Los Angeles County. In the high desert, the quantity and quality of water are integral components driving development, especially in the Antelope Valley area. We are encouraged that the County incorporated into the DEIR elements that promote watershed management, support low-impact development (LID), and reduce the effects of hydromodification. We are encouraged that the DEIR discusses rooftop-mounted solar and wind projects, and how these systems would have minimal impact on stormwater run-off and natural drainages.

However, the Ordinance does not address the importance of building ground-mounted solar and wind projects on previously disturbed lands, where feasible, to protect ephemeral watersheds, maintain biological soil crusts, and minimize erosion in desert regions. In addition, the environmental document does not discuss use of recycled water where feasible, for construction and maintenance of solar and wind projects, as encouraged by the State Water Board Recycled Water Policy (July 2009).

### **Focus Development on Previously Disturbed Lands**

We recommend that the County promote and provide incentive for ground-mounted renewable energy development on previously disturbed lands as part of the renewable energy Ordinance, where feasible. Desert ecosystems are fragile. Biological soil crusts are common and provide a variety of functions including soil stabilization and nutrient cycling. When these ecosystems are disturbed, recovery is slow, on the order of decades. To minimize impacts to undisturbed desert lands, we encourage the County to support and promote development and reuse of previously disturbed lands, such as former agricultural lands. Such reuse can benefit environmental resources, including hydrology and water quality, by maintaining relatively undisturbed natural areas and avoiding direct impacts to established habitats and surface waters.

### **Recycled Water Uses**

The State Water Board adopted the Recycled Water Policy in February 2009 (effective May 14, 2009, and amended January 22, 2013). The purpose of the policy is to increase the use of recycled water from municipal wastewater sources, in a manner that implements state



and federal water quality laws, as a means towards achieving sustainable local water supplies. The Recycled Water Policy establishes goals and mandates for recycled water use. The mandates are to increase the use of recycled water from the amount used in 2009 by 200,000 acre-feet per year by 2020 and by 500,000 acre-feet per year by 2030. Incentives for implementing recycled water projects include grant opportunities and priority funding.

In July 2009, the State Water Board adopted General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water (General Permit). Some of the allowable recycled water uses include: landscape irrigation of parks, greenbelts, playgrounds, school yards, athletic fields, golf courses, and cemeteries; dust control for construction activities and road maintenance; mixing concrete; and soil compaction.

The Water Board supports recycled water as a safe alternative to potable water for such approved uses including dust control, road maintenance, and construction. We encourage the County to consider recycled water use as a development standard in their Ordinance. The Los Angeles County Sanitation District treatment facilities in Lancaster and Palmdale both have the technologies to supply project developers with recycled water for both construction and operational needs.

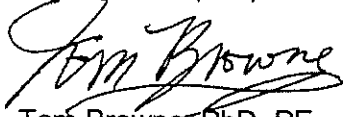
#### **PERMITTING REQUIREMENTS**

A number of activities associated with renewable energy development have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Board or Lahontan Water Board. We note that the DEIR addresses the need to obtain a permit under the State Water Board General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, 20012-006-DWQ for renewable energy projects 1 acre in area and larger. Other required permits may include:

- Recycled water use for landscape irrigation and dust control may require Waste Discharge Requirements (WDRs), issued by the Lahontan Water Board; and
- Streambed alteration and/or discharge of fill material to a surface water, including water diversions, may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill WDRs for impacts to non-federal waters, both issued by the Lahontan Water Board.

We request that the DEIR recognize the potential permits that may be required of project developers, as outlined above. Information regarding these permits, including application forms, can be downloaded from our web site at <http://www.waterboards.ca.gov/lahontan/>.

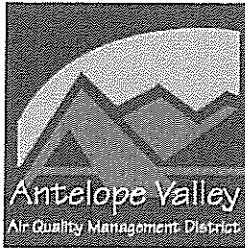
Thank you for the opportunity to comment on the DEIR. We are encouraged that the County is taking the initiative to establish long-term planning strategies for renewable energy development. If you have any questions regarding this letter, please contact me at (760) 241-7391 ([tbrowne@waterboards.ca.gov](mailto:tbrowne@waterboards.ca.gov)) or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 ([pcopeland@waterboards.ca.gov](mailto:pcopeland@waterboards.ca.gov)).



Tom Browne, PhD, PE  
Water Resource Control Engineer

cc: State Clearinghouse (SCH 2014051016) ([state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov))  
California Department of Fish and Wildlife, South Coast Region ([AskR5@wildlife.ca.gov](mailto:AskR5@wildlife.ca.gov))

R:\RB6\RB6\Victorville\Shared\Units\PATRICE'S UNIT\Tom\CEQA reviews\LA County renewable energy ordinance\final LA Co Renewable Energy Ordinance DEIR.docx



Antelope Valley Air Quality Management District  
43301 Division St., Suite 206  
Lancaster, CA 93535-4649

661.723.8070  
Fax 661.723.3450

Eldon Heaston, Executive Director  
In reply, please refer to AV0315/022

March 31, 2015

Jay Lee  
Department of Regional Planning  
320 West Temple Street  
Room 1354  
Los Angeles, CA 90012

Subject: Draft Environmental Impact Report (SCH# 2014051016) Los Angeles County Renewable Energy Ordinance Project

Dear Mr. Lee:

The Antelope Valley Air Quality Management District (AVAQMD) has reviewed the Draft Environmental Impact Report (DEIR) for Los Angeles County Renewable Energy Ordinance Project. The AVAQMD concurs with the proposed analysis of potential impacts in the Air Quality section. AVAQMD Designations and Classifications are available on the AVAQMD web site at:  
<http://www.avaqmd.ca.gov/Modules/ShowDocument.aspx?documentid=2908> .

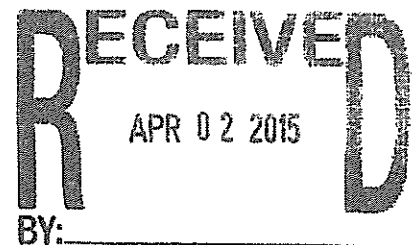
If you have any questions regarding this letter, please contact me at (661) 723-8070 x2.

Sincerely,

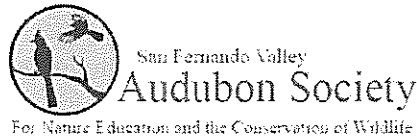
A handwritten signature in black ink, appearing to read "Bret Banks". The signature is stylized with loops and flourishes.

Bret Banks  
Deputy Director

BSB/bb







April 6, 2015

Jay Lee  
Department of Regional Planning  
320 West Temple St, Room 1354  
Los Angeles, CA 90012  
Fax: (213) 626-0434  
Email: [jalee@planning.lacounty.gov](mailto:jalee@planning.lacounty.gov)

Dear Mr. Lee:

On behalf of Audubon California and San Fernando Valley Audubon Society we thank you for the opportunity to comment on the DEIR for the Draft Renewable Energy Ordinance (hereinafter referred to as "the document") for Los Angeles County.

With over 150,000 members and supporters Audubon California is the state office of National Audubon Society. Now in its second century, Audubon connects people with birds, nature and the environment that supports us all. Our national network of community-based nature centers, chapters, scientific, education, and advocacy programs engages millions of people from all walks of life in conservation action to protect and restore the natural world.

San Fernando Valley Audubon's mission is to promote the conservation of resources, to preserve and enhance the natural habitat within our territory, to increase the public's and our awareness and appreciation of bird life and the natural environment and to create a social environment that encourages individual knowledge, development, and participation.

Audubon California and San Fernando Valley Audubon support the reduction of greenhouse gas emissions of the energy sector, the primary source of greenhouse gases that cause global warming, through construction and operation of renewable energy such as wind, solar and geothermal - as long as projects are sited properly to avoid, minimize and, as a last resort, mitigate effectively for the impacts on birds and other wildlife.

National Audubon Society has recognized the 326,295 acres of the Antelope Valley of Kern and Los Angeles Counties as a globally significant *Important Bird Area* as the Lead Agency has noted in the DEIR. (National Audubon Society, Important Bird areas in the U.S. available <http://netapp.audubon.org/iba/Reports/270> ). The Important Bird Areas

Program, administered by the National Audubon Society in the United States, is part of an international effort to designate and support conservation efforts at sites that provide significant breeding, wintering, or migratory habitats for specific species or concentrations of birds. Sites are designated based on specific and standardized criteria and supporting data.

Los Angeles Audubon commented previously on the Draft Ordinance itself, and those comments are provided by reference with these comments, as the issues raised were not addressed in the current draft Renewable Energy Ordinance posted on the Los Angeles County Planning website as the “third draft of the ordinance”.

Our comments are as follows:

### **General comments**

1. Generally, we support the draft DEIR of the Renewable Energy Ordinance in the attempts to propose Zoning Code Amendments that will direct the construction of renewable energy in Los Angeles County.

However, the document is not adequate to serve as a programmatic document that may exempt utility-scale solar or small-scale and utility-scale wind projects from full CEQA analysis, nor allow for a modified or lesser CEQA process, nor allow future CEQA documents to tier off of the cumulative effects or other analyses in order to provide a Conditional Use Permit with less than full CEQA review, or to provide a Mitigated Negative Declaration for utility-scale solar or wind projects.

Recommendation: Clarify in the document and in the Zone Amendments that ALL utility-scale solar and wind projects will undergo full CEQA review in order to obtain a Conditional Use Permit.

2. We support the exclusion of renewable energy projects in SEAs.

Recommendation: Identify the SEAs as Advanced Mitigation Areas for conservation opportunities as part of the SEA program with a general analysis from currently available data of the biological resources and open space values in the SEAs. Current compensatory mitigation measure compliance can often be piecemeal and unconnected, and identifying biological resources on SEAs as mitigation lands that are suitable to mitigate for impacts on species and habitat *in advance* to aid developers in mitigating effectively would be a progressive step in conservation of biological resources and open space, and expedite the permitting of renewable energy projects, by Los Angeles County.

3. In impact assessment, the preferred hierarchy is avoid, minimize, and if the impact cannot be avoided or minimized, then mitigate effectively for the impact.

This should be emphasized throughout the document where relevant, especially when impacts are significant. Currently the document discussion of impacts relies on

compensatory mitigation primarily and often solely. Both California Energy Commission and California Department of Fish & Wildlife Wind Energy guidelines and Federal Wind Energy Guidelines discuss the abandonment of a wind project with high risk to birds or bats as a successful measure to avoid those impacts.

4. The analysis of direct and indirect effects is inadequate.

4.4-28 describes effects from collision of birds with panels without calling these effects “direct” and identifies “vehicle collisions, spread of disease and wildlife behavioral avoidance” as potential “indirect” effects. These are actually direct effects and should be described as such.

“Small wind turbines are generally not tall enough to be within migratory wildlife flight paths.”

Please site the reference for this statement or remove it.

On the contrary, migratory birds may fly through the rotor swept area of small wind turbines. *Most songbirds, waterfowl, shorebirds, herons, and egrets migrate at night (Kerlinger and Moore, 1989). Nocturnal migrants generally take off after sunset, ascend to their cruising altitude between 300 and 2,000 feet (90–610 meters), and return to land before sunrise (Kerlinger, 1995). For most of their flight, songbirds and other nocturnal migrants are above the reach of wind turbines, but they pass through the altitudinal range of wind turbines during ascents and descents and may also fly closer to the ground during inclement weather or when negotiating mountain passes (Able, 1970; Richardson, 2000).*

Recommendation: Small wind turbines as well as utility-scale wind turbines should be required to conduct protocol-level migratory bird studies to determine if there is an impact to migratory birds that may ascend or descend to “stopovers,” (areas with water, resources or vegetation) and how significant that impact may be, as per CEC and DFW guidelines.

5. Ridgelines

a. The definition of “significant ridgelines” is inadequate, and this does not reduce the impacts of wind turbines on raptors to less than significant.

The document defines and maps “significant ridgelines” as “ridgelines which are highly visible and dominate the landscape.” (DRAFT Renewable Energy Ordinance page 36 of 79) and suggests setbacks for wind turbines from these ridgelines.

Ridges are known to concentrate bird and bat movements. (2007, California Energy Commission & California Department of Fish & Wildlife, California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development). Raptors are especially vulnerable to wind turbines sited on ridges. Strickland et al (2001) concluded

that wind turbines located away from the edge of the ridge at Foote Creek Rim, Wyoming, would result in lower raptor fatality rates than turbines located immediately adjacent to the edge. Smallwood and Neher (2004) had similar finds in that they determined that raptors fly disproportionately more often on the prevailing windward aspects of slopes. (2007, California Energy Commission & California Department of Fish & Wildlife, California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development). The ordinance should use the best available science to determine a setback from a ridge for a wind energy project as well as the setback for windward slopes.

That setback should be a minimum of 500 feet for both utility-scale and small-scale wind energy turbines.

#### 6. Confusion in the document.

a. The document confuses “utility-scale ground-mounted solar energy facilities and “utility-scale structure-mounted solar energy facilities” as on Cumulative Effects page 5-15, paragraph 3. The document should be checked thoroughly in order not to imply that utility-scale ground-mounted solar energy facilities might require Minor CUP discretionary process, or the document contradicts itself.

b. The Draft Renewable Energy Ordinance of December 2014 says it is SUBJECT TO CHANGE but the DEIR does not address nor cannot analyze the impacts of an ordinance that is subject to change.

c. Inclusion of signs, telephone repeater stations, townhouses, water reservoirs, dams, treatment plants, gaging stations, pump stations, wells and tanks, tasting rooms, tattoo parlors, etc. in the renewable energy ordinance is confusing and should be analyzed in a separate DEIR if the Lead Agency is proposing any changes to the regulation of these uses, or if there are changes to any of the terms and conditions of these uses. Additionally, inclusion of these other uses do not conform to the project description (DEIR, Chapter 3) and therefore make the CEQA document inadequate and the project poorly described, and does not meet the Project Objectives described in the document.

Recommendation: If the Lead Agency is providing revised versions of current General Plan or describing zoning uses, Lead Agency should provide those ordinances or zoning use descriptions as they currently exist, with redlined additions of the renewable energy uses that will be included in each of those zones, rather than redlining the renewable energy ordinance to include other uses that are not renewable energy uses and which may be a modification of current zoning uses.

We make the following comments by species that we have identified as focal species for the Antelope Valley.

#### 1. The analysis of the impact of the project on Swainson’s hawk is inadequate.

There is no mention of the survey protocols or mitigation measures for loss of nesting or foraging habitat for Swainson’s hawk in the Antelope Valley as this population is considered unique. Please incorporate and refer to **Swainson’s Hawk Survey Protocols**,



**Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California, State of California California Energy Commission and Department of Fish and Game, June 2, 2010. (and attached herewith).**

Recommendation: Zone Amendments for all utility-scale and small-scale renewable energy projects should incorporate by reference these survey protocols and mitigation measures in this document and all future updates that may be posted on the website [https://www.dfg.ca.gov/wildlife/nongame/survey\\_monitor.html](https://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) or in consultation with the California Department of Fish & Wildlife.

2. Tricolored Blackbird

Comment: Please update the status of this species to state endangered. Please provide a process whereby the list of threatened, endangered, or sensitive species will be updated in the ordinance.

3. Golden Eagle

a. In 4.4-32 the document states “Utility-scale ground-mounted wind energy facilities shall not be constructed closer than 4,000 feet to a known golden eagle nest site.”

The current protocol recommended by the US Fish & Wildlife Service in the draft document for the DRECP Golden eagle permit is:

Covered Activities (renewable energy development and transmission) will not be sited or constructed within 1-mile of any active or alternative golden eagle nest within an active golden eagle territory.” (DRECP draft DEIR/DEIS, II.3-68, Preferred Alternative, August 2014).

Recommendation: Revise Zone Amendments for all forms of renewable energy and transmission to include this 1-mile protocol. This 1-mile protocol appears in the draft Renewable Energy Ordinance that the document is analyzing (DRAFT---Renewable Energy Ordinance – December 2014 –DRAFT SUBJECT TO CHANGE).

b. The document should incorporate by reference the protocols for Golden eagle surveys and avoidance measures: **Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations, Page et al, U.S. Fish and Wildlife Service.**

Recommendation: Require survey protocols and avoidance measures for both utility-scale wind and solar projects to conform to this document or to updates on the website and all future updates that may be posted on the website [https://www.dfg.ca.gov/wildlife/nongame/survey\\_monitor.html](https://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) or in consultation with U.S. Fish & Wildlife Service on an Eagle permit application.

#### 4. Burrowing owl

a. The document should incorporate by reference the **Staff Report on Burrowing Owl Mitigation, State of California Natural Resources Agency Department of Fish and Game March 7, 2012**, or any other documents or updates referring to survey protocol or avoidance, minimization and mitigation measures for sensitive species posted on the website [https://www.dfg.ca.gov/wildlife/nongame/survey\\_monitor.html](https://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) or in consultation with the California Department of Fish & Wildlife.

#### 5. Fully Protected Species

a. 4.4-8 The document does not mention protected or fully-protected species for which take permits may not be available, or for which take permits might be available only in an NCCP.

#### 6. Federal and/or State-listed Species in the Antelope Valley

a. 4.4-52 Table 4.4-3 Federal and/or State-listed Species in Antelope Valley should be revised to include Tricolored Blackbird (state endangered) and Mountain plover (candidate for listing). Protected and fully protected species should be listed as well such as Golden eagle (Bald and Golden Eagle Protection Act) and White-tailed kite (Fully protected). Western snowy plover in Antelope Valley would not be federally or state listed, as only the coastal population is threatened.

Sincerely,



Garry George  
Renewable Energy Director  
AUDUBON CALIFORNIA  
4700 Griffin Ave  
Los Angeles, CA 90031  
[ggeorge@audubon.org](mailto:ggeorge@audubon.org)  
323-933-6660 p



Dave Weeshoff  
Conservation Chair  
SAN FERNANDO VALLEY AUDUBON SOCIETY  
P.O. Box 7769 Van Nuys, CA 91409  
[weeshoff@sbcglobal.net](mailto:weeshoff@sbcglobal.net)

Enc:

- June 4, 2014 Los Angeles Audubon comments on draft Renewable Energy Ordinance.
- Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California, State of California California Energy Commission and Department of Fish and Game, June 2, 2010.
- Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations, Page et al, U.S. Fish and Wildlife Service.
- Staff Report on Burrowing Owl Mitigation, State of California Natural Resources Agency Department of Fish and Game March 7, 2012





P.O. Box 931057  
Los Angeles, California 90093

June 4, 2014

Los Angeles Department of Regional Planning  
ATTN: Thuy Hua  
320 W. Temple Street, 13<sup>th</sup> Floor  
Los Angeles, CA 90012

via email: [thua@planning.lacounty.gov](mailto:thua@planning.lacounty.gov)

Dear Ms. Hua:

Los Angeles Audubon has been a voice for birds and conservation in Los Angeles for over 100 years. Our mission is to promote the enjoyment and protection of birds and other wildlife through recreation, education, conservation and restoration. We have more than 10,000 members and supporters in the County of Los Angeles.

Los Angeles Audubon supports renewable energy to reduce the impacts of climate change when the energy generation structures and transmission are sited properly to avoid, minimize or mitigate effectively for impacts on birds and other wildlife and their habitat.

Thank you for the opportunity to provide comments on draft 2 of the Renewable Energy Ordinance of the County of Los Angeles.

**1. 22.52.1640-B-Height Standards for Temporary Meteorological Towers.**

The ordinance should require higher standards for permitting meteorological towers that measure wind speeds. Tower height, guy wires and steady-burning lights have a tremendous impact on species of birds, especially nocturnal migrants protected under the federal Migratory Bird Treaty Act (MBTA) and other laws.<sup>1</sup>

The ordinance should encourage the use of LIDAR or other remote sensing meteorological measuring technologies that avoid impacts on birds and bats, and if towers are permitted they should have no guy wires and no steady-burning lights.

Flight diverters have limited effectiveness in deterring nocturnal migrants.

**2. 22.52.1660 Standards for Ground-Mounted Utility-Scale Renewable Energy Facilities**

**Section H – Transmission lines.**

---

<sup>1</sup> Longcore et al, Height, Guy Wires, and Steady-burning lights increase hazard of communication towers to nocturnal migrants: A review and meta-analysis, [http://www.urbanwildlands.org/Resources/Longcore\\_06-253.pdf](http://www.urbanwildlands.org/Resources/Longcore_06-253.pdf)

The ordinance should require applicants to conform to Avian Power Line Interaction Committee (APLIC) guidelines <http://www.aplic.org> if any power lines, gen-tys or substation connections sited above ground. We appreciate the efforts of the County to site transmission and power lines under ground.

### **Section L – Impacts to Birds and Bats**

We are especially concerned that Section L of 22.52.1660 Standards for Ground-Mounted Utility-Scale Renewable Energy Facilities is too brief and provides little guidance to permit applicants in siting their project.

We recommend that Section L.

- include a list of the current regulatory framework of federal, state and municipal laws, executive orders, and treaties that protect birds, bats, and their habitat .
- require conformance by permit applicant to federal as well as state guidelines for utility-scale wind energy projects

<http://www.energy.ca.gov/windguidelines/>

[http://www.fws.gov/windenergy/docs/weg\\_final.pdf](http://www.fws.gov/windenergy/docs/weg_final.pdf)

- state a preference for avoidance of impacts over minimization or compensatory mitigation for impacts
- require consultation with U.S. Fish & Wildlife Service and California Department of Fish & Wildlife on preparation of an Avian Bat Protection Plan (also known as Bird Bat Conservation Strategy) for both solar and wind projects whether an endangered or threatened species is present on the site. Solar projects impacts on birds are shown to be potentially significant.

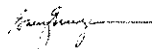
While these guidelines are aimed at utility-scale wind projects, the siting process is also generally valid and useful for siting small-scale wind energy systems, and some elements are useful for siting solar projects.

### **3. 22.52.1650 Standards for Small-Scale Wind Energy Systems**

Ridges are known to concentrate bird and bat movements.<sup>2</sup> Raptors are especially vulnerable to wind turbines sited on ridges. Strickland et al. (2001) concluded that wind turbines located away from the edge of the ridge at Foote Creek Rim, Wyoming, would result in lower raptor fatality rates than turbines located immediately adjacent to the edge. Smallwood and Neher (2004) had similar findings in that they determined that raptors fly disproportionately more often on the prevailing windward aspects of slopes.<sup>3</sup>

The ordinance should use the best available science to determine a setback from a ridge for a wind energy project, and what the setbacks should be for windward slopes. 50 feet is not adequate. We recommend 500 feet.

Sincerely,



Garry George

Conservation Chair

[garrygeorge@laaudubon.org](mailto:garrygeorge@laaudubon.org)

323-933-6660 p

---

<sup>2</sup> California Energy Commission & California Dept of Fish & Wildlife, [California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development](#)

<sup>3</sup> California Energy Commission & California Dept of Fish & Wildlife, [California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development](#)

**Swainson's Hawk  
Survey Protocols, Impact Avoidance, and Minimization Measures  
for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern  
Counties, California**

State of California  
California Energy Commission and Department of Fish and Game  
June 2, 2010

**Swainson's Hawk Background Information**

The Swainson's hawk (*Buteo swainsoni*) is listed as a California state threatened species under the California Endangered Species Act (CESA). The species is not listed as threatened or endangered under the federal Endangered Species Act. To comply with state wildlife protection requirements and receive project approvals, renewable energy project developers proposing projects in the Desert Renewable Energy Conservation Plan (DRECP) area may be required to conduct surveys and avoid or minimize impacts to Swainson's hawks and related nesting and foraging habitat. The survey protocols and mitigation and monitoring plan recommendations provided below suggest approaches and measures for complying with protection requirements.

Antelope Valley Swainson's hawks are known to have historically nested in Joshua tree woodlands and foraged in grasslands and native desert scrub communities. Currently, they nest in Joshua tree woodlands, ornamental roadside trees, and windrow or perimeter trees in active and historical agricultural areas. Foraging habitat includes dry land and irrigated pasture, alfalfa, fallow fields, low-growing row or field crops, new orchards, and cereal grain crops. Swainson's hawks may also forage in grasslands, Joshua tree woodlands, and other desert scrub habitats that support a suitable prey base. Gophers dominate the prey base of agriculturally based pairs while Swainson's hawks nesting in natural desert habitats consume a wider variety of prey species. While California's Central Valley Swainson's hawk population winters in Mexico, Central America South America, and a small percentage in the Central Valley, the migration habits of the Antelope Valley population are unknown. Recent observations suggest that they may arrive in nesting territories generally later than the Central Valley Population (Pete Bloom, raptor biologist, personal communication).

**Environmental Review Considerations**

The California Environmental Quality Act (CEQA), Warren-Alquist Act and implementing regulations, and CESA require consideration of direct, indirect, temporary, permanent, individual project, and cumulative impacts. CEQA allows approval of projects with significant effects when measures have been included to avoid or mitigate those effects, or specific considerations make such measures infeasible and specific benefits outweigh the significant effects. (CEQA Guidelines §21081). CESA regulates the

taking of state-listed species. "Take" is defined as to "hunt, pursue, catch, capture, or kill, or to attempt to hunt, pursue, catch, capture, or kill." (Fish and Game Code §86). Incidental take authorization requires that all impacts to the species are minimized and fully mitigated and that mitigation is roughly proportional to the extent of the impacts of the taking. (14CCR § 783.4). This "full mitigation" standard is intended to ensure that the status of the species is the same or better after project and mitigation implementation as it was prior to project implementation.

Renewable energy project development could cause direct, indirect, individual, and cumulative adverse impacts to Swainson's hawks when facility construction and operation areas (such as wind turbines, power plants, solar panels and tower sites, access roads, staging areas, and pulling/splicing locations) occur in areas where hawks are present. Potential impacts include loss of foraging habitat and disruption of breeding activities due to increased dust, noise, and human presence. Direct mortality from vehicle strikes and collisions with wind turbines is also known to occur. Construction disturbance during the breeding season and habitat loss could cause incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.

The current land uses in the Antelope Valley area support approximately 10 breeding pairs. This area comprises the southernmost edge of the known breeding range for this species in California. The small number of breeding Swainson's hawks in the Antelope Valley and the potential isolation from other Swainson's hawk populations makes the Antelope Valley population particularly susceptible to extirpation. Swainson's hawks have high nest site fidelity, meaning they return to the same site year after year (Estep 1989, Woodbridge et al. 1995). This may limit exchange of individual birds between distant breeding groups (Hull et al. 2007). Hull et al. (2007) found evidence suggesting that the Central Valley population has had little recent genetic exchange with other populations east of the Sierra Nevada. Due to the geographical isolation of the Antelope Valley Swainson's hawk population from other breeding populations, together with the species' high site fidelity, it is reasonable to infer that rapid re-colonization of the Antelope Valley would be unlikely if nesting pairs were lost. Given these facts, the California Department of Fish and Game (Department) would consider impacts to breeding pairs to be potentially significant because they may cause the population to become less than self-sustaining.

A substantial reduction in numbers or habitat of a rare, threatened, or endangered species would be considered a significant impact under CEQA. Potentially significant impacts may result from activities that cause nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), or direct mortality. Due to the Swainson's hawk's known preference for areas of low vegetation that support abundant prey, such as grasslands or alfalfa fields (Bechard 1982, Babcock 1995), the Department considers conversion of foraging areas to renewable energy power plant facility sites to be habitat loss. For example, solar panel arrays are expected to eliminate most or all foraging potential. Significant habitat loss may result from individual projects and cumulatively, from multiple projects. Each



project which contributes to a significant cumulative effect must offset its contribution to that effect in order to determine that the cumulative impacts have been avoided.

The Department considers a nest site to be active if it was used at least once during the past 5 years. Impacts to suitable habitat or individual birds within a five-mile radius of an active nest will be considered significant and to have the potential to “take” Swainson’s hawks as that term is defined in §86 of the Fish and Game Code. Please consult with the Department when determining whether “take” authorization is warranted for a specific project.

### **Special Considerations for Wind Energy Development**

Wind turbines present an additional, continuous, long-term risk of Swainson’s hawk take throughout the life of a project. This continuous risk is not always considered in the environmental analyses for other types of projects that may have limited short-term impacts (e.g. construction related impacts). It has been documented elsewhere in California that Swainson’s hawks are killed by wind turbines. Turbine strikes could occur during migration or during the nesting season. Swainson’s hawk surveys for wind energy development should follow the same methods as for solar energy projects, described below, but the impacts analysis and corresponding mitigation should consider the additional continuous long-term risk of turbine-related fatalities. Habitat impact analysis should consider both the ground surface area and the air space that is used by Swainson’s hawks. The mitigation methods described below are specific to ground surface impacts. Wind energy development project proponents should consult with the Department to develop avoidance measures and mitigation specific for the loss of air space and the potential for on-going take of Swainson’s hawk during project operations.” For additional avian considerations that are applicable to Swainson’s hawk, please refer to the “California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development” (California Energy Commission and California Department of Fish and Game 2007). The guidelines can be found at <http://www.energy.ca.gov/windguidelines/index.html>.

### **Survey Protocol**

The following survey protocols and monitoring/mitigation recommendations suggest surveys and acquisition of mitigation lands prior to construction of the project if nests are found within five miles of a project site. Before conducting surveys for a particular project, project developers are encouraged to contact the Department and the appropriate lead agencies for up-to-date, site-specific issues and possible refinement of the following survey protocols and monitoring/mitigation recommendations. Survey methods may be flexible depending on surveyor experience and/or already-known nesting status for a given site. Please contact the Department (Region 4 for Kern County and Region 5 for Los Angeles County) to use an alternate survey plan from that suggested within this document.

A qualified raptor biologist with Swainson's hawk survey experience, approved by the Department and the appropriate lead agency, should conduct surveys in a manner that maximizes the potential to observe the adult Swainson's hawks and the nest/chicks via visual and audible cues within a five-mile radius of the project. All potential nest trees within the five-mile radius shall be surveyed for presence of nests. Surveys should be conducted prior to environmental analysis. Surveys should be repeated within the 5-mile radius if a survey season ensues or elapses before the onset of project related activities. If construction begins mid-survey season the year after the initial surveys, then the surveys should continue for that part of the season before construction.

Examples of suitable habitats are Joshua tree woodlands, grasslands, desert scrub communities, and agricultural lands (such as alfalfa, fallow fields, beet, tomato, onions, and other low-growing row or field crops, dry-land and irrigated pasture, cereal grain crops [including corn after harvest], and new orchards). Consult with the Department when determining whether the project site is within five miles of already-known nest sites. If hawks or known nest sites are found within the five-mile radius, consult with the Department and the appropriate lead agency for follow-up to the surveys.

#### **Minimum Equipment**

Minimum survey equipment includes a high-quality pair of binoculars and a high quality spotting scope. Surveying even the smallest project area will take hours, and poor optics often result in eye-strain and difficulty distinguishing details in vegetation and subject birds. Other equipment includes good maps, GPS units, flagging, and notebooks.

#### **Walking vs Driving**

Driving or "windshield surveys" are usually preferred to walking if an adequate roadway is available through or around the project site. While driving, the observer can typically make a closer approach to a hawk without causing the bird to fly. Although it might appear that a flying bird is more visible, they often fly away from the observer using trees as screens; and it is difficult to determine from where a flying bird originated. Walking surveys are useful in locating a nest after a nest territory is identified, or when driving is not an option.

#### **Angle and Distance to the Tree**

Surveying subject trees from multiple angles will greatly increase the observer's chance of detecting a nest or hawk, especially after trees are fully leafed and when surveying multiple trees in close proximity. When surveying from an access road, survey in both directions. Maintaining a distance of 50 meters to 200 meters from subject trees is optimal for observing perched and flying hawks without greatly reducing the chance of detecting a nest/young. Once a nesting territory is identified, a closer inspection may be required to locate the nest.

**Speed**

Travel at a speed that allows for a thorough inspection of a potential nest site. Survey speeds should not exceed 5 miles per hour to the greatest extent possible. Stop frequently to scan subject trees with binoculars and a spotting scope.

**Visual and Audible Cues**

Focus surveys on both observations and vocalizations. Observations of nests, perched adults, displaying adults, and chicks during the nesting season are all indicators of nesting Swainson's hawks. In addition, vocalizations are extremely helpful in locating nesting territories. Vocal communication between hawks is frequent (1) during territorial displays, (2) during courtship and mating, (3) through the nesting period as mates notify each other that food is available or that a threat exists, (4) and as older chicks and fledglings beg for food.

**Distractions**

Minimize distractions while surveying. Although two pairs of eyes may be better than one pair at times, conversation may limit focus. Radios should be off, not only are they distracting, they may cover a hawk's call.

**Notes and Species Observed**

Take thorough field notes. Detailed notes and maps of the location of observed Swainson's hawk nests are essential for filling gaps in the California Natural Diversity Data Base; please note all observed nest sites, including date and time of observation, location name, UTM coordinates, number of young, and any behavioral observations. Also document the occurrence of nesting great horned owls, red-tailed hawks, red-shouldered hawks and other potentially competitive species. These species will infrequently nest within 100 yards of each other, so the presence of one species will not necessarily exclude another.

**Timing**

To meet *the minimum level* of protection for the species, surveys should be completed for *at least* the two survey periods immediately prior to a project's initiation. For example, if a project is scheduled to begin on June 1, you should complete three surveys in Period II and three surveys in Period III. However, it is always recommended that surveys be completed in Periods II, III, and IV prior to environmental review.

**Survey Period I**

**Survey dates: January-March 31 (optional but recommended; pre-arrival)**

**Survey Time: All day**

**Number of Surveys: 1**

**Justification and search image:** Prior to Swainson's hawks arrival from wintering grounds, it is very helpful to survey the project area to determine potential nest locations. Most nests are easily observed from relatively long distances, giving the surveyor the opportunity to identify potential nest sites, as well as becoming familiar with the project area. It also gives the surveyor the opportunity to locate and map competing species nest sites such as great horned owls from February on, and red-tailed hawks

from March on. After March 1, surveyors may observe Swainson's hawks staging in traditional nest territories.

Survey Period II

Survey dates: April 1 – April 30 (arrival; nest building)

Survey Time: All day

Number of Surveys: 3

Justification and search image: Most Antelope Valley Swainson's hawks return by April 1, and immediately begin occupying their traditional nest territories. For those few that do not return by April 1, there are often hawks ("floaters") that act as place-holders in traditional nest sites; they are birds that do not have mates, but temporarily attach themselves to traditional territories and/or one of the site's "owners." Floaters are usually displaced by the territories' owner(s) if the owner returns. Most trees are leafless and are relatively transparent; it is easy to observe old nests, staging birds, and competing species. The hawks are usually in their territories during the survey hours, but typically soaring and foraging in the mid-day hours. Swainson's hawks may often be observed involved in territorial and courtship displays, and circling the nest territory. Potential nest sites identified by the observation of staging Swainson's hawks will usually be active territories during that season, although the pair may not successfully nest/reproduce that year. Both males and females are actively nest building, visiting their selected site frequently. Later in this survey period, territorial and courtship displays are increased, as is copulation. The birds tend to vocalize often, and nest locations are most easily identified. This period may require a great deal of "sit and watch" surveying.

Survey Period III

Survey dates: May 1 – May 30 (egg laying; incubation)

Survey Time: daylight hours, as needed to monitor known nest sites only

Number of Surveys: 3

Justification and search image: Nests are extremely difficult to locate this time of year, and even the most experienced surveyor may miss them, especially if the previous surveys have not been done. During this phase of nesting, the female Swainson's hawk is in brood position, very low in the nest, laying eggs, incubating, or protecting the newly hatched and vulnerable chicks; her head may or may not be visible. Nests are often well-hidden, built into heavily vegetated sections of trees or in clumps of mistletoe, making them all but invisible. Trees are usually not viewable from all angles, which may make nest observation impossible. Following the male to the nest may be the only method to locate it, and the male will spend hours away from the nest foraging, soaring, and will generally avoid drawing attention to the nest site. Even if the observer is fortunate enough to see a male returning with food for the female, if the female determines it is not safe she will not call the male in, and he will not approach the nest; this may happen if the observer, or others, are too close to the nest or if other threats, such as rival hawks, are apparent to the female or male.

Survey Period IV

Survey dates: June 1 – July 15 (fledging)

Survey Time: Sunrise to 1200, 1600 to sunset

Number of Surveys: 3

Justification and search image: Young are active and visible, and relatively safe without parental protection. Both adults make numerous trips to the nest and are often soaring above, or perched near or on the nest tree. The location and construction of the nest may still limit visibility of the nest, young, and adults.

**Reporting**

Provide the Department and the appropriate lead agency with pre-construction survey results in a written report, within 30 days prior to commencement of construction activities. Report should include date of the report, authors and affiliations, contact information, introduction, methods, study location (include map), results, discussion, and literature cited. For surveys intended to support environmental impact analyses prior to project approval, provide the Department and the lead agency with written survey reports within 30 days of survey completion. Submit California Natural Diversity Database (CNDDB) forms for any listed, fully protected, or species of special concern/countered and positively identified. CNDDB forms may be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDB_FieldSurveyForm.pdf).

**Monitoring and Mitigation Plan Recommendations**

1. If surveys locate a nest site, prepare a Swainson's hawk Monitoring and Mitigation Plan in consultation with the Department and the appropriate lead agency. Plans should be prepared by a qualified biologist approved by the Department and the appropriate lead agency. Include in the plans detailed measures to avoid and minimize impacts to Swainson's hawks in and near the construction areas. For example:
  - a. If a nest site is found, design the project to allow sufficient foraging and fledging area to maintain the nest site.
  - b. During the nesting season, ensure no new disturbances, habitat conversions, or other project-related activities that may cause nest abandonment or forced fledging occur within 1/2 mile of an active nest between March 1 and September 15. Buffer zones may be adjusted in consultation with the Department and the lead agency.
  - c. Do not remove Swainson's hawk nest trees unless avoidance measures are determined to be infeasible. Removal of such trees should occur only during the timeframe of October 1 and the last day in February.

2. Monitoring plans should include measures for injured Swainson's hawks:
  - a. For hawks found injured during project-related activities on the project site, plans should call for immediate relocation to a raptor recovery center approved by a Department regional representative.
  - b. A system should be set-up so that costs associated with the care or treatment of such injured Swainson's hawks will be borne by the project developer.
  - c. Include appropriate contact information for immediate notification of the Department and the appropriate lead agency of a hawk injury incident. Have approved procedures in place to notify the Department and the lead agency outside normal business hours. Notify the appropriate personnel via telephone or email, followed by a written incident report. Include the date, time, location, and circumstances of the incident in the reports.
3. Mitigation plans should focus on providing habitat management (HM) lands. Lands which are currently in urban use or lands that have no existing or potential value for foraging Swainson's hawks will not require mitigation nor would they be suitable for mitigation. The plans should call for mitigating loss of Swainson's hawk foraging habitat by providing HM lands within the Antelope Valley Swainson's hawk breeding range at a minimum 2:1 ratio for such habitat impacted within a five-mile radius of active Swainson's hawk nest(s). The Department considers a nest active if it was used one or more times within the last 5 years.

Project developers may consider delegating responsibilities for acquisition and management of the HM lands to the Department or a third party, such as a non-governmental organization dedicated to Mojave Desert habitat conservation. Seek approval of such delegations from the Department and the appropriate lead agency.

Approaches for acquisition and management of HM lands:

- a. HM Land Selection Criteria. Identify the region within which lands would be acquired, and the type/quality of habitat to be acquired. Foraging habitat should be moderate to good with a capacity to improve in quality and value to Swainson's hawks, and must be within the Antelope Valley Swainson's hawk breeding range. Foraging habitat with suitable nest trees is preferred.
- b. Review and Approval of HM Lands Prior to Acquisition. Provide an acquisition proposal to the Department and the appropriate lead agency for their approval at least 3 months before acquiring the property. The proposal should discuss the suitability of the property by comparing it to the selection criteria.
- c. Land Acquisition Schedule and Financial Assurances. Complete acquisition of proposed HM lands before initiating ground-disturbing project activities. If an irrevocable letter of credit or other form of security is provided, complete land acquisition within 12 months prior to beginning ground-disturbing project

activities. Provide financial assurances for dedicating adequate funding for impact avoidance, minimization and compensation measures required for project approval (see 3. d. below).

- d. HM Lands Acquisition. Be prepared to provide a preliminary title report, initial hazardous materials survey report, biological analysis, at a minimum to the Department and the appropriate lead agency. The information will likely also be reviewed by the California Department of General Services, Fish and Game Commission and/or Wildlife Conservation Board.

Fee title or conservation easement will likely be transferred to a Department of Fish and Game-approved non-profit third party and the Department, or solely to the Department. Be prepared to support enhancement and endowment funds for protection and enhancement of acquired lands. The Department will approve establishment and management of the funds, ensuring that qualified non-profit organizations or the Department will manage the funds in an appropriate manner. Contributed funds and any related interest generated from the initial capital endowment would support long-term operation, management, and protection of the approved HM lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the HM lands. Be prepared to reimburse the Department or other entities for all land acquisition costs.

## References

Babcock, K.W. 1995. Home range and habitat use of breeding Swainson's hawks in the Central Valley of California. *Journal of Raptor Research* 29:193-197.

Bechard, Marc J. Effect of vegetative cover on foraging site selection by Swainson's Hawk. *The Condor* 84: 153-159.

California Energy Commission and California Department of Fish and Game 2007. California guidelines for reducing impacts to birds and bats from wind energy development. Commission final report. California Energy Commission, Renewables Committee, and Energy Facilities Siting Division and California Department of Fish and Game, Resources Management and Policy Division. CEC-700-2007-008-CMF.

Estep, J.A. 1989. Biology, movements, and habitat relationships of the Swainson's Hawk in the Central Valley of California, 1986–87. California Department of Fish and Game, Nongame Bird and Mammal Section Report.

Woodbridge B, Finley KK, Bloom PH. 1995. Reproductive performance, age structure, and natal dispersal of Swainson's Hawks in the Butte Valley, California. *Journal of Raptor Research* 29:187–192.



# AGUA DULCE TOWN COUNCIL

33201 Agua Dulce Canyon Road \* Box Number 8 \* Agua Dulce, CA 91390

Website: [www.adtowncouncil.com](http://www.adtowncouncil.com)

April 8, 2015

Ms. Susan Tae [stae@planning.lacounty.gov](mailto:stae@planning.lacounty.gov)  
Supervising Regional Planner, Section Head  
Community Studies North Area  
Department of Regional Planning  
320 West Temple Street, Room 1354  
Los Angeles, CA 90012

Mr. Jay Lee [jalee@planning.lacounty.gov](mailto:jalee@planning.lacounty.gov)  
Renewable Energy Ordinance  
Department of Regional Planning  
320 West Temple Street, 13<sup>th</sup> Floor  
Los Angeles, CA 90012

Via Email to: [stae@planning.lacounty.gov](mailto:stae@planning.lacounty.gov)  
[jalee@planning.lacounty.gov](mailto:jalee@planning.lacounty.gov)

**RE: Renewable Energy Ordinance, Draft 3**

Dear Ms. Tae and Mr. Lee:

The Agua Dulce Town Council has reviewed the Renewable Energy Ordinance, Draft 3 (REO3) and we support the concerns and issues raised by the Association of Rural Town Council's letter dated March 16, 2015 regarding the Draft REO3. We have attached a copy of that letter for your reference.

Additionally we have found some specific issues within the Draft Ordinance that need to be addressed. These issues and concerns are outlined below:

- **Modifications to existing Los Angeles County Code regarding Minor Conditional Use Permits**

22.56.085 Grant or Denial of Minor Conditional Use Permit by Director: Renewable energy systems have been added to section A. Nine other uses that are NOT related to renewable energy systems can apply for Minor Conditional Use Permits. Section 22.56.085 C. has been eliminated in its entirety. This section refers to notice of the project to neighboring parcels and the ability to file a request for a public hearing. Section 22.56.085 D. deletes the requirement of holding a public hearing if at least two requests for a public hearing have been filed.

This changes how a minor conditional use permit is processed and extends beyond the renewable energy ordinance. It appears that in the effort to establish regulations and permit requirements that support and facilitate the development of solar and wind energy systems, the requirements of Minor Conditional Use Permits have been compromised. The notice requirement and ability for a public hearing are key components to the Minor Conditional Use Permit process. These existing requirements must be left in for ALL Minor Conditional Use Permits. The public's ability to comment and raise concerns should not be denied. As written, the hearing officer can grant a permit with little or no public input. These sections need to be reinstated.

- Don Henry, President  
(661) 268-1731  
[BH33605@aol.com](mailto:BH33605@aol.com)
- Mary Johnson, Secretary  
(661) 492-5999  
[maryjohnson767@gmail.com](mailto:maryjohnson767@gmail.com)
- Troy Fosberg, Treasurer  
(818) 854-0031  
[damage22@gmail.com](mailto:damage22@gmail.com)
- Steve Cummings, Clerk  
(661) 433-3234  
[hasaranch1@yahoo.com](mailto:hasaranch1@yahoo.com)
- Scott Keller, Member  
(661) 317-5355  
[scottwilliamkeller@aol.com](mailto:scottwilliamkeller@aol.com)
- Ed Porter, Member  
(661) 992-3692  
[porterredward@msn.com](mailto:porterredward@msn.com)
- Lou Vince, Member  
(310) 597-7154  
[Lou@LouVince.com](mailto:Lou@LouVince.com)

- **Definitions and standards for Small-Scale Energy Systems**

22.08.190 defines both Small-Scale Solar and Small-Scale Wind Energy systems as systems used to generate energy primarily for **on-site use**. Yet, the standards within the document allow for Small-Scale Energy systems to be sized allowing the energy capacity generated to power well over that required for on-site use. Specifically on page 3 of 79, Small-Scale Wind Energy systems can have a rated capacity of 50 kilowatts or fewer. According to research, 50 kilowatts could power up to 32 homes. Lowering the maximum rated capacity to 25 to 30 kilowatts or less brings the energy generated to a more realistic amount to be used on-site.

Section 22.52.1625 C. 4. Allows up to two wind towers for each five gross acres of land. Small-Scale Wind Energy systems should be limited to a single tower regardless of the size of the parcel. Section 22.52.1615 B. Standards for Small-Scale Solar Energy Systems Ground-mounted systems allows for maximum lot coverage for 25% of the lot or parcel or 2.5 acres, whichever is lesser. According to research, 2.5 acres of ground-mounted solar structures could provide enough energy to support up to 55 homes. One quarter acre of ground mounted solar structures could power more than 5 homes. Lowering the maximum lot coverage to one quarter acre brings the standard to a more realistic amount of energy generated for on-site use. 22.52.1640 C. indicates a Small-Scale Solar Energy system that exceeds the maximum lot coverage of 25% requires approval of a Minor Conditional Use Permit. For reasons listed above, the lot coverage needs to be reduced to a maximum of one quarter acre for on-site use. Anything greater than one quarter acre coverage would move the project out of the "Small-Scale" system and into a "Utility-Scale" system and should require a full Conditional Use Permit. A Minor Conditional Use Permit is not appropriate.

- **22.56.085 Minor Conditional Use Permit**

In addition to the concerns outlined above, Utility-Scale Wind energy facility, structure mounted needs to be removed from this section. The unmitigable impacts from Utility-Scale Wind energy systems include noise, visual, avian mortality, and fire danger. Minor Conditional Use permits by their nature are limited in scope and impacts. Utility-Scale Wind energy systems do not fit that category. A full Conditional Use Permit is necessary.

We ask that you seriously consider our comments when making modifications to the Draft Renewable Energy Ordinance. We appreciate the opportunity to comment on this important addition to Los Angeles County Code.

Sincerely,

*Don Henry*

Don Henry, President  
Agua Dulce Town Council – 2015

Enclosure: 1

Cc: Ms. Rosalind Wayman, 5<sup>th</sup> District Senior Deputy [rwayman@lacobos.org](mailto:rwayman@lacobos.org)  
Mr. Edel Viscarra, 5<sup>th</sup> District Land Use Deputy [evizcarra@lacobos.org](mailto:evizcarra@lacobos.org)  
Ms. Susan Zahnter, Association of Rural Town Councils, Interim Director [ourartc@gmail.com](mailto:ourartc@gmail.com)

April 6, 2015

Los Angeles County Department of Regional Planning  
320 W. Temple Street, 13th Floor  
Los Angeles, CA 90012  
Attn: Thuy Hua  
Email: [thua@planning.lacounty.gov](mailto:thua@planning.lacounty.gov)  
Email transmission of 3 (three) pages

Subject: Comments on the Draft Environmental Impact Report issued for the Draft Renewable Energy Ordinance.

Dear Ms. Hua;

Please accept these comments on the Draft Environmental Impact Report ("EIR") prepared pursuant to the County's Draft Renewable Energy Ordinance ("RenEng") released February 20, 2015. Incorporated in these comments on the Draft EIR by reference are all the prior comments that I have previously submitted to DRP on this draft ordinance, including (but not limited to) the letters submitted on March 9 and March 20, 2015.

I have a number of concerns with the Draft EIR, and public review of the document is made more complicated by the fact that it is not provided in a searchable format, and it is broken into 31 separate files. In short, reviewing the Draft EIR is NOT a "user friendly" experience. Given that the Draft RenEng Ordinance was released at the same time as the Draft EIR on a compressed public review, comment, and hearing cycle (which demands Board approval by June, 2015), it seems rather clear that the Department of Regional Planning ("DRP") has little time for a thoughtful public dialogue. Moreover, and due to the shortness of time, the logistical difficulties with reviewing the Draft EIR, and the preponderance of other important issues that face the Community of Acton at this time (including, but not limited to, the High Speed Rail, problems with Southern California Edison, new proposed commercial developments, etc.), my comments on the Draft EIR are necessarily brief.

### **CHAPTER 3:**

The Draft EIR states: "Impacts of small-scale solar energy systems (rooftop or ground-mounted) on land and resources generally relate to effects on the visual environment."

This is not true. A major health and safety concern is glare, which can occur significant distances from the solar installation. See for example the white portions of the energy system depicted in the photograph provided at the top of Figure 3-4c; though muted in the photograph, these are areas of intense glare. Such glare is utterly blinding to anyone

(including motorists) in the path of the reflected light. Another major health and safety concern is dust/respiratory problems and valley fever created by allowing a quarter of every parcel in the Antelope Valley to be covered with ground mounted solar equipment. For example, see the photograph provided at the bottom of Figure 3-4b. If 25% of every lot in Acton has what is depicted in this figure (as allowed by the draft RenEng ordinance), there would be daily dust storms across the entire community of Acton.

The last line item on Table 3-2 (on page 3-32) states that the Environmental Design Consideration for the “Noise” issue associated with utility scale wind is “Noise from small-scale wind energy systems shall not exceed 60 dBA SEL, as measured at the closest neighboring inhabited dwelling”. This is problematic for a number of reasons:

- This limit applies only to small-scale wind energy facilities and ignores the substantially louder noise potential of utility-scale wind generation facilities (both structure- and ground-mounted).
- It constrains the consideration of noise impacts to only existing inhabited dwellings, and ignores businesses and outdoor uses such as equestrian facilities (barns, corrals, trails), animal rescue facilities, agricultural uses, etc. The noise limit must be established at the fenceline, and not extend to properties that are not part of the energy development.
- It establishes a very high (60 dB) noise threshold (for small wind systems only) that is entirely unsuitable for rural areas. Ambient noise levels in such areas are typically less than 45 dBA, and an increase of 10 dBA results in an approximate doubling of the sound. The 60 dBA threshold essentially triples the ambient noise level in rural areas. To frame the issue in more understandable terms, 60 dBA is approximately the noise level one experiences 3 feet from an operating clothes dryer, and 10 dBA more (at 70 dBA) is the noise made by a vacuum cleaner. This authorizes a continuous and exceptionally loud “noise overlay” in rural areas where the existing noise profile is virtually non-existent. There is no reason for establishing such a high threshold value
- It relies on a “Single Event Level” parameter which does not properly or accurately represent the continuous noise profile generated by wind energy facilities. While uses which occasionally create single noise events of 60 dBA or more may be reasonable in rural areas, uses which generate such noise levels on a continuous basis (such as wind turbines) are not.
- The Draft EIR considers only initial sound profiles, does not require a “followup” assessment after construction to confirm that noise limits are met, and fails to address increased noise that will occur over time after the wind turbine bearings and contact surfaces are worn down and no longer “true”.

The Draft EIR also fails to justify the absurdly low “2X height” setback limits for utility scale ground-mounted wind projects (see table 3-4). In fact, I could find nowhere in the Draft EIR where impacts of this ridiculous setback limit is even addressed; instead, the Draft EIR simply states that the impacts of these facilities are potentially significant. Worse yet, and in violation of CEQA, the Draft EIR fails to consider alternative setback limits which would indeed reduce impacts to less than significant. For the record, internationally, (and particularly in Europe), the setback standard for such facilities is at least half a mile or more.

#### CHAPTER 4

This Chapter fails to properly establish quantifiable thresholds for various environmental impacts such as land use, aesthetics, and water usage even though such thresholds can indeed be developed for small-scale solar development in residential rural communities such as Acton. Specifically, DRP could reasonably quantify thresholds of significance for impact that will occur when 25% of the entire land area of rural communities like Acton is occupied by ground-mounted accessory solar facilities that are supposedly “small scale”. Rather than complying with CEQA, the Draft EIR merely states that the RenEng ordinance “could have a potentially significant effect” on the environment (see for example page 4.1-17). This failure to establish quantitative thresholds of significance in the Draft EIR constitutes a violation of CEQA (15064.7) and it allows DRP to completely sidestep *any* consideration of *actual* impacts that will occur in communities like Acton when huge sections of the community are occupied by “small-scale” solar facilities.

Worse yet, DRP’s failure to quantify impacts that will occur as a result of the RenEng Ordinance ultimately allows DRP to *ignore* viable project alternatives that would reduce impacts of “small scale solar facilities” in rural communities to less than significant. For instance, limiting “small-scale solar facility” development on *residential* and *agricultural* lots to 15 kW will entirely achieve the objective of “small scale solar” facilities by promoting solar development for “on site” use, while minimizing all the glare, dust, and water usage of such developments within rural communities to a level of insignificance. The Draft EIR must be revised to establish quantified impact thresholds for “small-scale” solar development in rural communities, and consider alternatives (in the form of size limitations on residential and agricultural uses) that reduce impacts to “less than significant”.

Sincerely,

Jacqueline Ayer  
Resident, Acton



Susan Zahnter  
P. O. Box 76  
Lake Hughes, CA 93532

6 April 2015

SENT VIA EMAIL

Mr. Jay Lee, Planner  
Renewable Energy Ordinance  
Los Angeles County Department of Regional Planning  
320 West Temple Street 13<sup>th</sup> Floor  
Los Angeles, CA 90012  
[jalee@planning.lacounty.gov](mailto:jalee@planning.lacounty.gov)

Dear Mr. Lee,

RE: Comments, Draft Environmental Impact Review, Renewable Energy Ordinance

It is ironic that the County's Renewable Energy Ordinance (REO), meant to provide protections not existing under current ordinances, is part and parcel of immense popularity of so-called "green energy" projects promoted by the renewable energy industry, State of California, and Federal energy policies that do considerable harm to natural environments, property owners, and residents. It is ironic massive destruction of landscapes, especially those of the rural Antelope Valley are promoted by the County's "green energy" ordinance, which is poised to have many "potentially significant and unavoidable" effects on North County communities. These effects are not only environmentally destructive to landscapes and wildlife, but harmful to the health and welfare of local residents via issues surrounding fugitive dust, water, and loss of private property values as a result of utility-scale renewable energy development.

There are well documented effects of utility-scale renewable energy on wildlife. Most of us have heard or read accounts of bird "streamers" evaporating in beams of intense light produced by solar plants; seen videos of federally protected raptors injured or killed in flight, foraging near wind turbines; heard of bats killed by the thousands by "barotrauma" created by atmospheric pressure changes around turbine blades, etc. However, thousands of residents and landowners across the Antelope Valley face the advance of utility-scale renewable energy projects that will produce fugitive dust that carries *Coccidioides immitis*, or Valley Fever. So far, there has been limited success in reducing dust, and "the emissions from industrial and transportation activities in the County, combined with topographic and meteorological characteristics of the area, create air quality conditions that fail to meet state and federal ambient air quality standards" (DEIR, 4.3-4). How does the DEIR address this failure to meet state and federal air quality standards? Recently, the Environmental Protection Agency faulted the Desert Renewable Energy Conservation Plan for failing to properly address impacts of Renewable Energy (RE) development on air quality. "Under the Clean Air Act, any new project that constitutes a potential new stationary source of air pollution must obtain a permit from the EPA under the agency's New Source Review program. Desert solar facilities have already been shown to contribute to particulate matter in the air downwind. Since the entire DRECP plan area violates federal clean air standards for particulate matter on a regular basis, it would seem sensible to apply New Source Review standards to those projects the DRECP is meant to encourage. The EPA suggests that a procedure for determining whether new renewable projects in the plan area will need to obtain New Source Review

permits be included in the DRECP's final Environmental Impact Statement: a substantial undertaking" (KCET, Rewire, The EPA Just Ripped California's Big Renewable Energy Plan, Chris Clarke, February 25, 2015 5:10 PM). No suggestion appears in the DEIR that EPA New Source Review criteria for permits would be a requirement for individual projects, and the lack of surety for elimination of fugitive dust and inability to reduce impacts to "less than significant" leaves residents in the Antelope Valley exposed to dangerous respiratory disease-causing particulate matter and *Coccidioides* spores, which can sicken and kill. Chapter 4.3 mentions only guidelines to protect project workers, not residents. As the DEIR explains, "there is no guarantee at this time on a project-specific level, that implementation of measures previously described and any future mitigation measures deemed necessary through the CUP discretionary process will reduce impacts to a level below significance" (pg. 4.3-29). There is no requirement in the ordinance that air quality meet measurable standards to protect Antelope Valley Residents, and no air quality monitoring equipment required by projects to evaluate the success of air quality mitigation measures.

Repeatedly, residents have expressed concerns regarding water issues. During this time of drought many have questioned the use of water for large utility-scale projects. Some projects have exhausted their allotted water supplies during construction phases and required additional water for dust control and have additional water needs for failing landscape designs. A concentration of projects in specific areas could cause diminishing ground water levels and affect private wells. As of this writing, water purveyors may sell water to any project as they see fit, even those outside their districts, and at the expense of water supplies for residents. There are no "required" water conservation plans or water quality testing in this document. The DEIR explains the water adjudication currently considered, and refers future projects to the requirements set forth by the court, when the final judgment occurs. The current drought has brought state requests to reduce water consumption by twenty-five percent. How is it possible to reduce water consumption and at the same time guarantee water for population growth and development of RE throughout the county?

So far, the DEIR does not approach the subject of mitigating the loss of property values adjacent to industrial-scale RE projects, as well as the effects of neighboring properties allowed to place up to 2.5 acres of ground-mounted solar panels (without a discretionary permit) on a five acre property. This portion of the RE Ordinance would essentially allow small utility-scale ground-mounted solar development throughout rural communities without public or CEQA review, and allow a piecemeal approach to RE development that may be prohibited by CEQA. Cumulatively, this could have significant impact. Anything that hinders property values is an unfair burden on rural property owners faced with shouldering the huge "actual" cost of renewable energy. In the paper, "International Review of Policies and Recommendations for Wind Turbine Setbacks from Residences: Setbacks, Noise, Shadow Flicker, and Other Concerns," by Katherine M. B. Haugen, Minnesota Department of Commerce: Energy Facility Permitting, October 19, 2011, the country of Denmark has policies in place that require payment to residents nearby wind turbine facilities to be reimbursed for lost property value. "People living within six times the total height of the wind turbine may request to have their property assessed for loss of value due to proximity of the wind turbines.<sup>80</sup> If the value of their property is determined to have decreased by a minimum of 1%, they may be reimbursed for their loss. The value of the property is assessed by experts in property value, and if they determine a significant decrease in the property value the wind facility developer is required to pay the difference" (page 19/43). It does not seem unreasonable to require assessment of adjacent properties by project proponents to determine value and, if necessary, compensate owners.



There are a number of communities in the eastern and western Antelope Valley that are identified as "Disadvantaged Unincorporated Legacy Communities" (General Plan 2035\_2014-Fig\_6). The notion of social justice is inherent in the designation. These communities have few basic services, and this also describes many other similar small communities across the valley without monetary resources for legal assistance, consultation with land planning and legal experts, and lobbyists to protect their rights and properties. How does this DEIR approach mitigation for all significant, unavoidable impacts to rural residents in the North County? It is disheartening to read and see the large number of those significant unavoidable impacts without mitigation to improve outcomes. Rural residents are facing dismal prospects of industrial development that will change the character of their communities. Please include discussion of social justice and RE as it relates to rural communities.

Sincerely,

A handwritten signature in cursive script, reading "Susan Zahnter". The signature is written in black ink and is positioned above the printed name.

Susan Zahnter

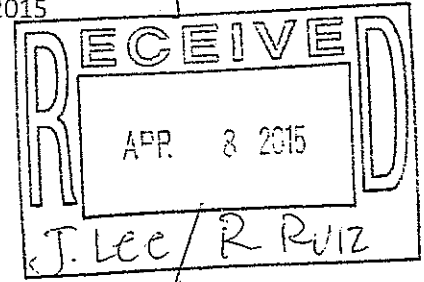


Kathleen Trinity  
4343 Fairlane St.  
Acton, Ca 93510

April 8, 2015

Project No. R2014-01160-1

Mr. Jay Lee  
Los Angeles County  
Department of Regional Planning  
320 West Temple St.  
Los Angeles, CA 90012



Dear Mr. Lee:

Last month in Lancaster I asked the Commission and your department to give careful consideration to placement of wind turbines in the Renewable Energy Draft Ordinance because of the very clear danger to birds, many of whom keep pests in check, who distribute seed, or who truly delight and inspire. In any case, our birds and migratory birds are part of the ecosystem in Acton and the surrounding communities.

What is a bird, or for that matter, any other animal without its habitat? Excluding humans, all vertebrate animal life on earth in 1970 has now been more than cut in half mostly because of the loss of habitat, habitat taken by humans for development, not just from climate change, the latter accounting for less than 2% (World Life Fund Report, 2014). Yes, we do need to heed the signs of climate change, and yet is the question for renewable energy how much we can get away with legally in the Ordinance, or rather how smartly and respectfully we can plan for renewable energy so as to protect local quality of life for both humans and animals?

Wind turbines in the mountains, foothills and interior hills of Acton would not only take the lives of thousands of birds yearly, but would deprive them and other animals of habitat. It is not just actual square footage that would be lost, but the quality of habitat loss due to noise, strobe effects of rotary blades, erosion caused by the bases of towers on or near slopes, maintenance roads and traffic, and the



Quality of life in Acton, and in some cases making a living, is inextricably bound to the life of domestic and wild animals and their habitat. In the larger picture, beyond Acton, it seems to me that any ordinance that fails to respect wildlife, domestic animals and the quality of life of humans is not rooted in the core values of our human nature. We shudder, as we should, at the traps that clamp down on a fox's leg, now illegal in California. And yet we cavalierly rationalize "takes," a euphemism for the mutilation and death of birds caught in the blades of turbines moving 120 to 180 mph. As Edward Gala writes in the L A Times, Opinion section, yesterday, April 6, there are other options for renewable energy without having to destroy the habitat and natural beauty of rural areas. Can we no longer look to the hills or do we have to avert our eyes because we know of the slaughter?



Jay Lee

---

**From:** Judy Watson [j\_a\_c\_1940@yahoo.com]  
**Sent:** Sunday, April 05, 2015 10:06 AM  
**To:** Norm Hickling; evizcarra@jacbos.org; Susan Tae; Jay Lee  
**Subject:** Not Recyclable

What happens to old wind turbines, made of fiberglass and hold 500 gallons of oil, they're not recyclable. What do you do with old solar panels that no longer function, that have Cadmium Telluride, a toxic poison, also not recyclable. Wind and Solar farms are the hypocrisy of the environmental movement. These projects haven't worked well for Europe, why would it for us? Do you research the Pro's and Cons? My view is of the Kern County wind farms, and many a day they sit motionless. No Wind. No Power. Solar Farms heat the ground and atmosphere around them, contributing to global warming.

Jobs? after completion of 6 months to a year, the area is a ghost town. Maybe one or two maintenance jobs. We should wait and see how reliable and efficient these farms are before we construct more. We've been telling you for years, we don't want DRP unelected bureaucrats making decisions for us.

Cindy Bonanno  
46307 Kings Canyon Rd.  
Lancaster, Calif. 93536  
917-7923





Jay Lee

---

**From:** Judy Watson [j\_a\_c\_1940@yahoo.com]  
**Sent:** Sunday, April 05, 2015 10:08 AM  
**To:** Norm Hickling; evizcarra@iacbos.org; Susan Tae; Jay Lee  
**Subject:** New Technology

California has reached it's 33%, requirement by law, for green energy projects. Yet, these projects are still destroying miles of desert land and more to come. I look out at the Antelope Valley covered in thousands of acres of solar panels, and think, this will soon be obsolete. Remember the first computer? It took up an entire room. In just a few short years, you could hold one in the palm of your hand which did 100 times what the first computer ever thought about accomplishing.

With technology still evolving, what do we do with out dated solar farms and wind turbines. Lockheed is researching nuclear fusion, with predictions of powering 80,000 homes 24/7 with electric power, about the size of a pick up bed, without waste or danger. Aren't we destroying miles of habitat, desert wildflower growth, and creating dust for nothing. Not to mention valley fever spores carried in unwanted dust that infects valley residences. It's time to stop all construction, take a breath, re-think these projects and consider the changes that will happen with new technology.

Thank you

Judy Watson  
46460 Kings Canyon Rd  
Lancaster, Calif. 93536  
661-724-1563



**Jay Lee**

---

**From:** Esca Smith [esmith65@avc.edu]  
**Sent:** Saturday, April 04, 2015 12:35 PM  
**To:** Jay Lee  
**Subject:** Re:Comments whether the report adequately examines potential environmental harm, new regulations on how and where renewable-energy facilities can be built

Hi Los Angeles County Regional Planning Commission, I would hope that any changes to existing regulations or any new regulations would address (1) preserving riparian environments and habitats in hillside canyons and washes in, at, and near home construction and commercial/industrial construction, because these habitats are critical to the survival of so many native desert species.; (2) Elevated construction of Solar Generation Stations on frame racks ten feet above ground, as to allow access and egress of wildlife in their historic range, including Pronghorn Antelope.; And (3) fencing with a smooth bottom wire or rail (not barbwire) 18" to 20" above ground allowing enough room for Pronghorn Antelope to crawl under. Also (4) guarantees that Habitat Corridors will include access and egress to the Antelope Valley California Poppy Reserve for Pronghorn Antelope. Thank You Sincerely Esca Smith President of the Naturalist Environmental Organization (N.E.O. a student club at Antelope Valley College)

